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The Solicitors' Journal

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*** Notices to Subscribers and Contributors will be found on page xiii.

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Current Topics.

Pleadings.

PLEADINGS HAVE been defined briefly by the late Mr. BLAKE ODGERS as statements in writing delivered by each party alternately to his opponent stating what his contention will be at the trial, and giving all such details as his opponent needs to know in order to prepare his case in answer. By reason of their very nature, as above outlined, pleadings would appear to be a necessity inseparably associated with legal procedure, and it is not, therefore, surprising to find their original usage practically contemporaneous with the beginnings of our legal system. At first conducted orally, pleadings were, according to Mr. BLAKE ODGERS, probably first drawn up on paper in the reign of EDWARD IV, but it was not until the passing of the Judicature Act, 1873, that the modern rules of pleading were formulated. Having regard to their venerable history and to the well-tested statutory provisions governing their use, it is not a little surprising to find a High Court judge saying that "pleadings are often a mere farce and ought to be abolished" (Mr. Justice WRIGHT in *Penney* v. *Photomaton Parent Corporation, Ltd., The Times*, 5th April). It is a little difficult to believe that his lordship was expressing the opinion that all pleadings should be completely abolished, and his use of the word "often" would appear to support that belief. Pleadings in some form or another there must be, in order adequately to acquaint the court briefly with the matter in dispute, and in *Truth* of the 9th April a writer says: "Over thirty years ago a determined effort was made to do away with them, an attempt that failed completely, not only because of the innate conservatism of lawyers, but because of the appalling difficulty of preparing for trial without any idea what one's opponent's case may be. Compared with this the trouble and expense entailed in delivering pleadings is quite negligible." Unfortunately, in these days of comparative poverty the expense entailed in respect of pleadings merits and has received a good deal of consideration. Judicial notice of the matter was taken by Mr. Justice HILL in the case of *The Ciss*, which came before his lordship on the 16th April, when he said that he thought that the parties in the case had acted very wisely in having merely typed and not printed pleadings. In his opinion it would be highly desirable in limitation actions, when there was no real issue which would lead to a fight, for the pleadings to be typed and not printed. That would save expense. He did not like to give any general directions, but it was worth considering whether the whole of our system of dealing with the printing of pleadings did not need to be revised. The system of printing arose at a time when typewriting was unknown and when probably printing was cheaper than making a large number of longhand copies. Speaking for himself, he would raise no objection to typewriting instead of printing if it meant a saving of expense. If, in fact, however, pleadings were to be abolished, what would take their place? To state the case orally would be to revert to the original practice, and no doubt, in due course, a learned judge would request counsel to put a particularly intricate case in writing so that in the long run the modern pleading would evolve again. Better to profit by experience and retain what we have gained, provided that the profits of experience are not outrageous!

Bankers' Books.

BANKERS ARE privileged persons who cannot be made to produce their books, "unless by order of a judge made for special cause." What is less generally appreciated is that no banker or officer of a bank can be compelled to appear as a witness, except by the same order for the same cause, and this provision of the Bankers' Books Evidence Act, 1879, no doubt overrides all statutory provisions for witness summonses, or the ordinary subpœna. Copies of entries must be given on the order of a court, and "court" includes justices holding a preliminary enquiry (*R.* v. *Kinghorn* [1902] 2 K.B. 949). The person who makes the copy and compares it with the original need not be an officer of the bank (*R.* v. *Albutt and Screen* (1911), 75 J.P. 112; 6 Cr. App. P. 55). That person can, of course, be compelled to give evidence, and though the proof may be given by affidavit, this, it is submitted, could not be admitted in a criminal case, where in the preliminary enquiry at least the defendant has a statutory right to cross-examine each witness. In practice no difficulty arises, because the banks always send one of their officials to prove the copies, and do not shelter themselves behind the statutory bulwark they possess in the Act cited above. Indeed, it is to be supposed they would prefer to do the work themselves, rather than give facilities to strangers.

A Tangled Web.

Mr. JUSTICE MACKINNON commented to the Grand Jury at the Manchester Spring Assizes on a case of folly, rather than of criminality, as he put it. It beautifully illustrates the moral couplet addressed to Victorian youth: "Oh, what a tangled web we weave when first we practice to deceive!" A married man, said the judge, desired to live with a woman not his wife, and yet to give her the coveted marriage lines. An obliging brother went through the ceremony, signing the register, not with his own name, but with that of his married brother, then about to contract the irregular union. The latter wove another strand in the web by signing as his single brother. *Exeunt omnes*, all satisfied; the judge labels them

as "incredible donkeys." Came the time when the single man wanted to take a real wife. He now stands charged with bigamy. Do the facts, if proved, constitute that offence? "Whosoever, being married, shall marry any other person during the life of the former husband or wife," commits bigamy, 24 & 25 Vict. c. 100, s. 57. It is obvious that the same word is used in two senses in the same sentence. "Married" means lawfully married, and the validity of the first marriage must be proved by the prosecution (*R.* v. *Kay* (1887), 16 Cox 292). "Marry," in the second place in the sentence, must mean "go through a ceremony of marriage." Now, did the obliging brother "marry" the irregular second mate of the married man? One of the requisites of a valid marriage is "that the parties, understanding the nature of the contract, should freely consent to marry one another" (Halsbury's "Laws of England," vol. xvi, para. 512). Here the parties did not consent to marry one another, and both were cognizant of a wilful misdescription done by the interchange of names between the brothers. We will not anticipate the decision of the court at the trial, but it may be the defence will be set up that the man charged with bigamy only went through an invalid performance with No. 1 wife, and therefore well and truly married No. 2. That is not bigamy.

Notice to Quit.

THE OLD question whether the words "on or before" inserted in a notice to quit renders such notice invalid was raised again recently in Lambeth County Court, where Judge MCCLEARY invited a solicitor to argue the point. "There are," said the learned judge, "some judges in the metropolitan area who hold that it is a good notice, but the judges of Lambeth Court have agreed to hold it invalid, and we shall continue to hold it so until it is upset by the Divisional Court." It is to be wished that there was some general agreement among county court judges on this point. Needless to say, the easiest thing for landlords to do would be to drop the words altogether, but since the ordinary printed notice to quit contains them there seems no likelihood of this being done. It is a very great pity that the Divisional Court in *Queens Club Gardens Estates, Ltd.* v. *Bignell* [1924] 1 K.B. 117, did not pronounce definitely on this point, and thus have saved the trouble and expense of a fresh appeal on the point, which appeal will sooner or later have to be made.

Wife's Legal Costs as "Necessaries."

AS WAS said by Lord Justice GREER in the recent case of *H. S. Wright & Webb* v. *Annandale* (decided in the Court of Appeal on 5th inst.) "it is an undoubted principle of law that a wife living apart from her husband who is unwilling to maintain her has a right at common law to pledge his credit for necessaries, and, included in that term is the right to instruct a solicitor in proceedings taken by her against her husband or to defend proceedings taken against her by him." But as he proceeded to point out, there is a well-established exception to that rule, namely, where the wife has committed adultery. In "Lush on Husband and Wife," 3rd ed., pp. 394, 407, it is stated that "the wife's right to assume her husband's assent to her contracts for necessaries exists only where she continues chaste." In the case before the Court of Appeal it was strenuously argued that this states the law much too widely, and that it is only when the wife is "living in adultery" that her power to pledge her husband's credit ceases to exist. All the members of the court rejected this contention and approved the statement of the law as appearing in "Lush on Husband and Wife." The court also rejected a second contention that the position of the wife as to pledging her husband's credit for costs is different according as she is the attacking or defending party—a distinction for which there appeared to be some ground in the judgment of Lord Justice SCRUTTON in *Durnford* v. *Baker* [1924] 2 K.B. 587, 600, but the learned Lord Justice retracted his earlier view on this point. The decision on the two points logically follows from the earlier cases of *Durnford* v. *Baker*, *supra*, and *Arnold & Weaver* v. *Amari* [1928] 1 K.B. 584, but it undoubtedly bears hardly upon the wife's solicitors who, while acting for her, were quite unaware of her matrimonial offences. The court, however, drew attention to the decision of the late Sir SAMUEL EVANS in *Jinks* v. *Jinks* [1911] P. 120, where the withdrawal of a retainer by a wife who was the petitioner in a suit for judicial separation was held not to deprive her solicitor of the right to carry in his bill and tax his costs in the Divorce Division.

Adoption of Children: Payment or Reward.

A POINT OF some difficulty may occasionally arise upon the interpretation of s. 9 of the Adoption of Children Act, 1926. That section reads: "It shall not be lawful for any adopter or for any parent or guardian except with the sanction of the court to receive any payment or other reward in consideration of the adoption of any infant under this Act or for any person to make or give or agree to make or give to any adopter or to any parent or guardian any such payment or reward." The section would seem to contemplate the payment of a lump sum, and it was a wise provision of the legislature that such payments should be illegal unless sanctioned by the court. Occasionally well-to-do people might properly give the adopters a substantial sum of money on the understanding that it should be used for the benefit of the child; more rarely the adopters might give a sum of money to the parents as an inducement to them to part with the child, though this kind of arrangement is generally distasteful. It has been suggested, however, that sometimes the court might sanction a weekly payment by a parent or guardian, for the maintenance of the child, to the adopters. Our own view is that such an arrangement is not in accord with the principles which ought to be observed in adoption. The adopting parents, having accepted the position of lawful parents, with the consequent liabilities and duties, ought not to rely on former parents or guardians to help them financially. As a general rule the severance between the old and the new relationship should be complete. If, however, payments of a weekly sum be sanctioned, and subsequently become in arrear, how can they be enforced? It will be observed that the court "sanctions" a payment or reward; it does not order it. There is therefore no question of enforcing an order. The majority of adoption orders are made by juvenile courts, which are courts of summary jurisdiction. It seems clear that they cannot enforce the payment of any "payment or other reward" sanctioned by the court. If payment is to be enforced, it would appear that the only method is by action in the civil courts, probably the county court, upon the contract between the adopters and the parents or guardians. The adoption order itself, containing a clause sanctioning the payment, would be necessary evidence in order to remove the taint of illegality which would attach to any payment or agreement to pay if made without such sanction.

A Two-Syllable Kid.

JUDGE TO WITNESS: Are you the "fiddling boxer"?

WITNESS: Yes, I happen to play the violin.

COUNSEL: That is not a deprecatory adjective.

WITNESS: I don't understand these big words. I am what they call "a two-syllable kid."

This is an excellent retort. It is painful to listen to counsel hurling polysyllables at ignorant people, who either blindly accept them and give answers they never intended, or stand embarrassed, and in confusion of thought; usually the former, for innumerable people of small culture revel in the sound of long words, like WELLS' "MCPOLLY," who made some of the most delightful portmanteau words ever invented. We ourselves have heard a poor woman, speaking in mitigation of her offspring's crime, say: "He's quite deaf, your worship,

and that's a great detriment in his favour." The police of course adore long words. They will "proceed to keep observation in the vicinity of premises," where an Oxford Don would merely "go to watch near a house," and the clerk of the court has to break into slang to interpret the constable's Latin to the unlearned. "He was having an altercation with a pedestrian," says X4572. "What does he mean, sir?" asks the prisoner of the clerk. "Having a row with someone on foot," comes the intelligible rendering. Then comes the expert, who says that the sewerman in the dock has produced damage to a potboy "in the region of the suprasternal notch." The prisoner is "fair flummoxed," as SAM WELLER has it, till some merciful person explains that the collector of beercans is hurt at the top of his breastbone. So we merrily go on, using language as a veil instead of a light. Let us thank Heaven for the occasional "two-syllable kid."

Official Secrets.

THE POWER of the police to question the public was fully discussed two years ago in this journal (see 72 SOL. J. 344) after they had occasion to request or require Miss SAVIDGE to proceed to Scotland Yard for this purpose. It was then pointed out that the police were at liberty, as any private citizen might be, to ask any person any question they choose, the examinee being correspondingly free to answer truly or falsely, or to refuse to answer at all, unless the subject matter of the question was covered by the Official Secrets Act of 1920. In fact s. 6 of that Act throws a duty on every member of the public to give information when required to certain police officers, etc., relating to an offence or suspected offence under the Act or that of 1911, and also to attend at such reasonable time and place as may be specified for the purpose, failure to give the information or attend as required being made a misdemeanour under the Act. Certain newspapers, whether by intelligent anticipation or otherwise, published paragraphs to the effect that the Cabinet had decided on GANDHI'S arrest. Despondency and alarm being thereupon registered in high quarters, the Attorney-General sent police officers of the requisite rank to three editors. Two of them appear to have satisfied their officers, the third passed his on to his political correspondent, who had furnished the information. The latter was in turn interrogated, being, in the words of the Attorney-General, reported in *The Times*, 13th inst., "merely asked to comply with the duty the statute imposes on him—namely to give the sources of his information." To the further question whether it took five hours of intense interrogation to secure that duty, no answer was vouchsafed. The Attorney-General, however, graciously observed that the power should be used sparingly. The general verdict will probably be that the observation was to the point so far as it went, but it did not go far enough. The next sparing exercise of the power ought to be half a century hence, and meanwhile the section, which might more fitly decorate a Russian statute-book than our own, should be repealed. The public may wonder how it got there, but the whole Act was so controversial that not much attention was focussed on it in Parliament, though protests against it were made on the second reading by Sir D. MACLEAN and Commander BELLAIRS. Perusal of the section will shew that the Horse Guards sentry in Whitehall has full power to stop passers-by and question them on the matter, and, no doubt to require them to await his pleasure for further cross-examination in the Tower of London, or some equally reasonable and convenient place. If a British Government cannot carry on without a power of this kind—although it managed to do so in tolerable fashion in the days of Queen VICTORIA—at least the exercise of it should be made subject to a magistrate's warrant, and not a *droit administratif*.

Mock Auctions.

"A FOOL AND his money are soon parted" is undoubtedly the maxim responsible for the introduction of mock auctions to the public, for none but a complete fool would imagine that the hard-headed eloquent business men associated with such enterprises will give very much for nothing. In numerous towns throughout the length and breadth of the country guileless people have been fleeced in varying degrees until the whole business has become a scandal sufficiently grave to merit the consideration of Parliament. A private members' measure was recently introduced which made it an offence for any person to conduct "mock auction" or "rigged sales" in which spurious or faked goods were represented as of genuine or superior quality, or where deceptions, tricks, or misrepresentations were employed to induce people to buy goods. The Bill, called the Mock Auctions Bill, reached the stage for consideration before Standing Committee "B" when, after discussion, a special report was agreed to the effect that the Committee did not consider it advisable to proceed further with it. Opposition to the Bill was, in fact, offered by Mr. SHORT, Parliamentary Under-Secretary for the Home Office, who pointed out, *inter alia*, that as the law stood, it was within the province of any trader to praise his own goods, and even to indulge in what was known as "puffing." A serious objection to the Bill, he added, was that it made a change in the criminal law by making it an offence to sell inferior foods even if there were no evidence of intention to defraud. Dealings of the nature conducted at mock auctions, however, do not require the instrumentality of the Legislature to stifle their growth. Public opinion does that soon enough, and once patronage is withdrawn the shop must shut. Another member, opposing the Bill, expressed the view that it was better to buy experience than to have it forced on one by legislation. "Don't let this House," he said, "try to keep a fool and his money together."

Dangerous Walking.

ALMOST INVARIABLY one finds that the type of pedestrian who loudly claims as much right to the road as the motorist not infrequently courts disaster by deliberately sauntering in front of approaching motor-cars with the apparently obvious intention of inconveniencing and annoying the driver. All motorists are unpleasantly familiar with this intensely objectionable class of individual, and are more than justified in feeling strong resentment that no effective measures have so far been evolved to secure for him his just deserts. The already huge yearly total of road accidents continues to increase, and will doubtless do so until steps are taken to punish pedestrians as well as drivers who offend against the generally accepted rules of the road. The possibility of dealing with obdurate walkers was referred to recently by Mr. MORRISON, the Minister of Transport, at the first annual meeting of the Pedestrians' Association. So far, said Mr. MORRISON, we had not followed some other countries in imposing penalties for dangerous and reckless walking, and he hoped that such action would not become necessary, but if fatal road accidents continued to increase it might be necessary in the public interest to impose penalties on pedestrians who walked to the common danger. How, it may be asked, would "walking to the common danger" be defined? It would of necessity be a question of degree dependent upon a number of widely varying circumstances. The partially deaf or blind, or the aged, for instance, would, of course, be entitled to greater consideration than those in possession of their full faculties. The legislature would, we think, in all the circumstances, be unwise to introduce any punitive measures for the benefit of pedestrians, and, after all, there are few intentionally reckless walkers; most of us are only too willing to keep out of the way of a motor-car. If, moreover, the suggested course were adopted, confusion would be bound to result in actual practice when cases arose for consideration. Lastly, surely the onus of keeping out of the way, so to speak, must be on those who choose to go at a great speed in vehicles over which they should have control.

Criminal Law and Practice.

No Names.—"No names were called out in court when the case came on. The couple were simply ushered into the dock." Thus reads a newspaper report of a case before a Metropolitan police court last week. Anything savouring of the suppression of names in criminal cases always provokes comment, and sometimes sinister motives are imputed. However, in the present case, the same report gives the names of the accused persons in full, so it is quite obvious that there was no concealment from the press representatives.

We think that we can easily solve the mystery. The couple, who were remanded on bail for an alleged infringement of the Alien's Order, were described as Louis Darquier de Pellapoix and Myrtie Darquier de Pellapoix. Is it reasonable to expect an assistant gaoler of the rank of police constable to expose himself to criticism for a faulty French accent when he can usher people into court silently or by quoting the number of a case in a list? Indeed at some courts, where the population of the district is cosmopolitan and men of many races and colours appear daily, there is no novelty at all about announcements by numbers, and even magistrates and professional men utterly decline to venture on the pronunciation of Russian, Arabian or Indian names.

Larceny of One's own Property.—A labourer was charged at Grimsby a few days ago with stealing his own dog. It appeared that the dog was found by a boy and handed over to the police, and that the owner climbed some railings and took possession of it. The police argued that, while the dog was in the police kennels it was their property and that the defendant took it in order to avoid payment of the police charges. The case was dismissed.

We are not surprised. It is true that the owner of property which is in the hands of a bailee, if he take it so that the taking has the effect of charging the bailee, is liable to be convicted of larceny. (See "Archbold's Criminal Pleading," 27th ed., p. 547, and cases there cited.) This was not the position in the present case, however. The definition of larceny in the Larceny Act, 1916 (for the purposes of that Act) recites that a person steals who, without the consent of the owner, fraudulently and without a claim of right made in good faith takes and carries away property. That test might properly be applied to the case in question, and it seems unlikely that the court would say that the taking was fraudulent, and without a claim of right made in good faith.

The claim of the police for their charges is a distinct matter and may, of course, be the subject of civil proceedings.

Speed Mania.—One must not be too hard on the irresponsible utterances of youth, but it is significant of the attitude of certain motorists that a lad of seventeen, fined this week for driving at a speed estimated at fifty miles an hour, is said to have observed: "What is the use of having a car like this if I cannot go about a hundred miles an hour?"

There is really a good deal in this, even though it were said half in jest. At the root of the dangerous driving evil and the lust for speed which (in spite of what is said to the contrary) is largely responsible for it, is the desire to get the most out of the car. Drivers in charge of high-powered cars, capable of eighty or ninety miles an hour, are much more likely to drive habitually at fifty or sixty than the man who has a car that will just do fifty. It is sometimes urged that the manufacture of cars capable of excessive speeds should be prohibited; but there is an immediate outcry that this would kill the British car industry and destroy the export trade.

If such general limitation be deemed impolitic, at least we suggest there might be a drastic regulation with regard to public vehicles. At the present time it is hardly an exaggeration to say that motor coaches are dashing about the country at a grossly excessive speed, to the danger of all other road users, quite unchecked.

A Rent Restriction Case.

The case of *Price* v. *Gould*, *The Times*, 8th inst., in clearing up a doubt on the Rent Restriction Act, 1920, also illustrates the absurdities of this legislation. The facts were simple. The statutory tenant was a spinster, and had died intestate. There lived with her in the protected dwelling a spinster sister, a married sister and a brother. The landlady, as plaintiff, sought possession of the premises, both on the ground that the statutory tenancy, being strictly a personal right, came to an end on the death of the person entitled to it, or alternatively under s. 1 of the Prevention of Evictions Act, 1924, because the premises were reasonably required by her for her own occupation as a residence. The defendants, the surviving members of the above household, relied on s. 12 (1) (*g*) of the Act of 1920, which contains the definition of "tenant." It provides that, in the case of a woman who dies intestate, such member of the tenant's family residing with her as may be decided in default of agreement shall be included in the definition. This provision, of course, ensures that, in cases to which it applies, the privilege of tenancy shall survive the death of the tenant. Counsel for the landlady naturally quoted cases, mostly on wills, to shew that the proper meaning of the word "family" is children, and therefore brothers and sisters were excluded. Counsel for the brothers and sisters quoted cases where an extended meaning had been given to the word, including *Salter* v. *Lask* [1925] 1 K.B. 584, a decision on this particular section, in which it was held that "family" included the husband of a deceased tenant. The wife of a deceased tenant, if living with him, is of course expressly included. In that case MacKinnon, J., observed (p. 588) "the language used in this Act resembles that of popular journalism rather than the terms of the art of conveyancing." Wright, J., held that "family" must be construed in a wide sense, and included brothers and sisters. This decision, however, was of no practical use to the defendants, because he made an order in favour of the plaintiff under the 1924 Act. The case, taken with *Lovibond* v. *Vincent* [1929] 1 K.B. 687, in the Court of Appeal, laying down that the rights of a statutory tenant are personal and cannot be transmitted by will, indicates an anomalous, not to say an absurd situation. In the latter case Miss Vincent, the defendant, was the daughter of the statutory tenant, who lived with her and was the executrix and sole beneficiary under her will. It was argued on her behalf that the statutory tenancy was transmissible by will, or, alternatively, that the statutory tenant must be deemed to die intestate *quâ* her holding, which would let in the daughter under s. 12 (1) (*g*), but both contentions were rejected, Greer, L.J., observing, as to the latter, that it was impossible to say that a person who had disposed of all her property by will could be an "intestate" within the meaning of the Acts. The paradox thus remains that a statutory tenant who wishes a son, daughter, spouse, or brother or sister living with him or her to succeed to the benefit of the tenancy must on no account bequeath it to such person by will, but must die intestate within s. 12 (1) (*g*). Whether a tenant who wished to dispose of other property could do so and ensure succession to the tenancy by an express provision excluding it from his will is a riddle which has not yet been solved, nor is it decided whether "family" would include, for example, step-children, a parent or parents, or uncles, aunts or cousins. If "family" is to be interpreted in a popular rather than conveyancing sense, a somewhat unfortunate distinction for those lawyers who claim that the law is no more technical than it need be, parents and step-children might appear to have a fair chance of success in a test case, and uncles and aunts rather a poor one. The obvious moral, however, is that if legislation of this kind is to be preserved indefinitely, it should be amended to accord with common sense; a moral pointed by the comments on the Acts by Scrutton and Greer, L.JJ., in *Lovibond* v. *Vincent*.

Territorial Waters.

Mr. D. B. Toye, in his King Edward VII Prize Essay (1923) on "The Jurisdiction of a State over its Territorial Waters and the Parts of the Sea around its Coasts," says that: "No branch of international law is in a more unsatisfactory condition than that of the rights and duties arising out of the possession and user of the margin of the sea, along the coast line of States, called 'territorial waters.'" Some attempt has been made to remove many of the difficulties connected with this important and far-reaching problem, but the matter is so complicated and inextricably intermixed with other international questions that, unhappily, little real progress appears to have been made. The subject was dealt with recently at The Hague by the Conference for the Codification of International Law, which completed its work on the 12th April. With regard to the matter here discussed, the conference, which employed the term "territorial sea" in preference to "territorial waters," agreed on two principles. Firstly, that freedom of navigation must be safeguarded; and secondly, that every coastal State possesses sovereignty over a belt of sea round its coasts. It is unnecessary to say that these principles have long been understood and applied. What the conference has failed to do is to lay down any definite limitation of the breadth of the belt of territorial waters. There was, in fact, considerable difference of opinion on this point, many of the representatives objecting to the customary three-mile limit on the ground that national interests might necessitate a wider belt, and the conference refrained from deciding whether international law did or did not recognise a belt of a given breadth. In the earlier history of the belt limit, the range of cannon shot was considered a deciding factor. In *The Anna* (1805) 5 Robinson's Adm. Rep., 373, a case in which an American ship, bound from the Spanish Main to New Orleans, was captured by the "Minerva" privateer near the mouth of the River Mississippi, Sir William Scott (as he then was) said: "We all know that the rule of law on this subject is '*terrae dominium finitur ubi finitur armorum vis*,' and since the introduction of firearms, that distance has usually been recognised to be about three miles from the shore." Despite, however, the gradual and great increase of the carrying power of guns, the three-mile limit became generally the customary limit of international law, although in particular exceptional circumstances various nations have from time to time increased it. The then Under-Secretary of State for Foreign Affairs on the 30th April, 1923, said: "His Majesty's Government have always maintained that by international law and practice the general limit of territorial jurisdiction is three miles, but from time to time claims to extend the three-mile limit have been advanced by different States. Such claims, which amount to annexation of the high seas, could only be effective by international agreement." To-day, just seven years later, we are still without an agreement which provides for an agreed consistent stipulated distance applicable to all nations alike, and we have the example of America claiming a twelve-mile limit in respect of the enforcement of her measures to combat illegal rum-running. The whole question of territorial waters is, of course, extremely complicated, depending as it does on so great a variety of circumstances. In the case of island scattered coasts, for instance, the outermost island may be twenty miles from the mainland; should the three-mile limit then start from the island or ought the island to have a three-mile limit of its own? A similar position arises in respect of isolated rocks, miles out at sea, on which lighthouses have been built. It is difficult to believe, however, that in spite of the intricacies of the problem, some universal territorial sea limit, say five miles, could not be agreed upon and recognised internationally. It is to be regretted that the Conference has not produced more definite and satisfactory results from their discussion on this important subject.

The Reconstruction of Rural Cottages.

So many statutes, mostly of public interest and importance, have been passed in recent years, that it is little wonder if some of the shorter Acts which do not affect everybody may have been rather lost sight of, except by officials and other persons who are concerned to take advantage of them, or superintend their operation. Here is a case in point: The writer happens to own some agricultural land in the west of England let to a farmer and worked as part of a larger farm. The only dwelling upon the land is a small cottage usually occupied by an agricultural labourer in the tenant's service. The tenant recently wrote to the owner and informed him that the cottage, which is probably eighty to one hundred years old, was getting into a poor state of repair, and ought to be reconditioned. He advised the writer, before doing anything else, to apply to the county council for financial assistance, which would be readily given in a proper case, subject to certain conditions. This came as a welcome surprise to the owner, who wondered what statutory authority there was for lending or making a grant of public money to the landlord of a more or less dilapidated building, and having perused the Housing Act, 1925, and referred to Agricultural Holdings Acts in vain, he wrote to the clerk of the county council, and received by return forms of application and other papers under an Act which he must admit he then heard of for the first time—the Housing (Rural Workers) Act, 1926, 16 & 17 Geo. 5, c. 56. The Act is, perhaps, best described by its full title: "An Act to promote the provision of housing accommodation for rural workers, and for persons whose economic condition is substantially the same as that of such workers, and the improvement of such accommodation, by authorising the giving of financial assistance towards the reconstruction and improvement of houses and other buildings."

The authors of the Act realised, as we who live in or within easy reach of cities and towns hardly do realise, that all over England in county districts, such as are sometimes described as being "at the back of beyond," there were numbers of old cottages rapidly falling into decay, and thereby hastening the depopulation of the agricultural areas and helping to drive the farm labourer to seek work in the towns. The Act has now got into working order, and will be of considerable use in staying this process, but advantage must be taken of its provisions within the next two years, or not at all.

Section 1 empowers the "local authority" (the county council or council of a county borough) to submit schemes to the Minister of Health for the improvement of houses or buildings within its area and to give assistance towards reconstruction. Every such scheme is to specify the cases in which assistance may be given, and the nature of the works required. By s. 2, assistance may be given either by grant or by loan or partly by each, but no assistance is to be given (*a*) where the value of the house after the work is done exceeds £400; (*b*) where the estimated cost of the work to be done is less than £50 (subject to a proviso in the case of work for the joint benefit of two or more dwellings); (*c*) unless the application is made before 1st October, 1931; (*d*) where the applicant's interest is leasehold for a term of less than thirty years unexpired; (*e*) unless the local authority is satisfied that the dwelling after completion will be in all respects fit for habitation by persons of the working classes.

The grant may take the form either of a lump sum paid after completion of the works, or periodical sums spread over not more than twenty years, to repay advances, but it must not exceed either (*a*) two-thirds of the estimated

cost of the works; or (*b*) £100 for each dwelling. It follows that every owner who takes advantage of the Act will have to spend a sum of between £17 and £34 out of his own pocket in respect of each dwelling; more than it would pay him to spend, in many cases, if he could not get some assistance. Then follow various provisions with respect to loans made under the section providing for a valuation by the local authority and repayment of principal and interest by instalments. Section 3 imposes certain conditions as to the occupation of dwellings so assisted. The occupier must be a person whose income is such that he would not ordinarily pay a higher rent than is usually paid by agricultural workers in the district, and the rent must not be greater than the normal agricultural rent. And the owner must, if required, from time to time give a certificate to the local authority that these conditions are being complied with. This should effectually exclude persons who buy up old cottages with intent to use them for occasional week-end occupation in the summer from taking advantage of the Act. But if Mr. and Mrs. Hodge, while in occupation of their cottage, win a prize in a competition or otherwise come into money, they are not to be obliged to quit their old home if the local authority assent to their remaining. If the owner chooses, within twenty years, to pay off the grant with compound interest, the dwelling will be freed from the conditions. Under s. 4 the Government is to make contributions towards the expenses of the local authorities in making grants to the extent of half the amount. Section 5 authorises the local authorities to borrow moneys required under s. 69 of the Local Government Act, 1888. By ss. 6 and 7, a person to whom assistance is given by the local authority is not disqualified for being elected a member of the authority, but he may not vote on any question under the Act if it relates to any house in which he is interested. The Act applies with certain modifications to Scotland, but not to Northern Ireland or the administrative County of London. The rate of interest on mortgages is to be prescribed by the Minister of Health.

Company Law and Practice.

XXIX.

LAST week we were here discussing the assignment of the office of director or manager, and the restriction thereon introduced by the Companies Act, 1929; this week it may not be inopportune to examine the question of the nomination of directors by outside persons or bodies. This is an operation which is not touched by s. 151, referred to last week, but it is not devoid of authority, as is the question of the assignment of this office. There is, however, no decision which throws any doubt on the proposition that a power may be conferred by the articles on some outside person or body to appoint a director or directors, and such a power is commonly conferred on debenture-holders, or the trustees of a trust deed for securing debenture stock, so that the interests of the secured creditors may be represented on the board, and their views put forward.

As may be imagined, such appointments are not always made without friction ensuing, and there are at least two reported cases where such friction resulted in an application to the Chancery Division. The first of these cases is *British Murac Syndicate Limited* v. *Alperton Rubber Company Limited* [1915] 2 Ch. 186. The articles of the defendant company provided that, so long as the plaintiff syndicate held at least 5,000 shares in the capital of the company, it should have the right of nominating two directors on the board of the company. There was also an agreement between the plaintiff syndicate and a trustee for the defendant company (which had been adopted by and was binding on the defendant company) to the same effect; the syndicate held, and continued to hold, the requisite number of shares, and appointments were made by the syndicate to the board in accordance with the terms of the agreement. There came a time, however, when the defendant company refused to accept two persons who were nominated by the syndicate in accordance with the provisions of the agreement; not only did they do this, but they sent out notice of a meeting which was convened with the object of cancelling the article above referred to giving to the syndicate the right to appoint two directors of the company.

But it was held by SARGANT, J., as he then was, that, following the decision in *Allen* v. *Gold Reefs of West Africa* [1900] 1 Ch. 656, a company cannot alter its articles of association for the purpose of committing a breach of a definite contract, one of the terms of which is that the articles shall not be altered in a particular way; that the contract between the syndicate and the defendant company involved as one of its terms that the article conferring the power to appoint was not to be altered; and that the company should therefore be restrained from making such alteration; a declaration was also made that the persons nominated were directors of the defendant company.

The forcing on an unwilling company of a particular person as director was then considered by the learned judge in these terms: "I think it is clear that, although an outside body like the plaintiff syndicate in the present case may have the power of nominating two directors on the board, the court would not by injunction force the company to accept on its board persons who were unfit or thoroughly unacceptable as members of the board of directors." In this case, as personal objections had been raised with regard to one of the nominees, no immediate injunction was granted in support of the declaration, but liberty was given to apply for such.

It clearly appears from the above that there is nothing illegal in conferring a power on outsiders to nominate directors. The other case does not stand on quite the same footing, because there it was held that there were two parts to the contract which contemplated two steps: first, a nomination by the plaintiff company of a person to be a director, and secondly an appointment by the defendant company of such nominee as director, a construction which was put forward, but rejected, in the *Murac Case*, *supra*. In the later case, *Plantations Trust Limited* v. *Bila (Sumatra) Rubber Lands Limited* [1916] 85 L.J. Ch. 801, the defendant company had refused to appoint after nomination by the body entitled to nominate, and EVE, J., on the facts, refused relief to the plaintiff nominators, at the same time expressing doubt as to whether a contract to elect the nominees of an outside body as directors of a company was one which the court would, in any circumstances, enforce by a decree of specific performance. "A contract to accept as directors any individuals nominated by a third party," said the learned judge, "strikes me as being a contract which, so long as it remains executory, the court might well hesitate to enforce."

This case was distinguished from the *Murac Case* on the ground that there the nomination by the outsider was sufficient to constitute the nominee director, while here it was necessary that, subsequently to the nomination, the nominees should be duly appointed directors by the company; but it seems to be clear that, in any case, the power must be exercised in a proper way by nominating a suitable person, while in the latter type of case, where there is some act to be done by the company to complete the appointment, it is at least doubtful whether relief will be granted. It is at any rate wiser to frame the articles and contract, if an effective power to nominate is wanted, so as to come within the principles of the *Murac Case*, *supra*.

(*To be continued*).

Responsibility for Aircraft Damage.

[CONTRIBUTED.]

THE increasing number of air disasters causing damage to property or persons raises the important question of responsibility for damage caused.

The principal legislation dealing with aircraft is to be found in the Air Navigation Act of 1920, 10 & 11 Geo. V, c. 80.

This Act was passed to give effect to the Paris Convention of 1919, and by its terms regulates all matters connected with aerial navigation and the maintenance of aircraft, both civil and military.

Section 9 (1) deals with trespass and nuisance by aircraft with particular reference to the question of liability and damage.

"Where material damage or loss is caused by an aircraft in flight, taking off or landing, or by any person in any such aircraft, to any person or property on land or water, damages shall be recoverable from the owner of the aircraft in respect of such damage or loss, without proof of negligence or intention or other cause of action, as though the same had been caused by his wilful act, neglect or default except where the damage or loss was caused by, or contributed to by the negligence of the person by whom the same was suffered . . . ."

Thus the Act takes such an action out of the ordinary case of damages caused by negligence in not requiring the plaintiff to prove negligence against the defendant.

Section 9 (2) defines "owner" for the purposes of the Act.

Section 10 declares that any person flying an aircraft in a manner to cause unnecessary danger to any person or property shall be liable to a penalty.

By s. 18 the Act is declared not to apply to aircraft belonging to or exclusively employed in the service of His Majesty.

Such being the provisions of the Act it is clear that where an aircraft which is privately owned or is owned by a company, causes material damage to any person or property the plaintiff may maintain an action for damages against the owner or owners of the aircraft, and is under no obligation to prove negligence against the defendant.

Where, however, the aircraft is the property of, or in the exclusive service of the Crown, no such action can be maintained. It is a maxim of the common law that the King can do no wrong, and no action at law can be brought by a subject against the Crown. Moreover, a Petition of Right will not lie in this country for a civil wrong committed by the Crown or its servants.

There remains then, only the expedient of suing the pilot of the machine. He is the person who actually committed the trespass and wrought the damage, and he is, at common law, primarily liable for the consequences.

If the pilot has been killed, even that remedy is unavailing, since at common law, "*actio personalis moritur cum persona*," and as an action for damages for negligence is a "personal" action, the estate of the deceased cannot be made liable.

It would appear, therefore, that where damage, no matter how great, is done by aircraft which belongs to, or is exclusively in the service of the Crown, if the pilot be killed no legal remedy exists, and any compensation given to the damaged party would be as an act of grace on the part of the Government.

SOLICITORS' FRAUDS ON CLIENTS.

The Law Society has, says *The Times*, resolved to secure the introduction in Parliament of a Bill designed to protect the public against losses arising out of the fraudulent conversion of clients' property by solicitors.

The matter is also to be considered by the Associated Provincial Law Societies.

It is the opinion of some members on the Government side of the House of Commons that, failing action in this connection by the legal profession, it would be the duty of Ministers to bring in legislation.

A Conveyancer's Diary.

The *Howe* v. *Lord Dartmouth* Rule and Leaseholds.

In a letter published in another column, "Draughtsman" refers to the review which appeared in this Journal last week of "Jarman on Wills," in which the reviewer threw doubt upon the opinion expressed by the editor of the seventh edition of that work, that the rule in *Howe* v. *Lord Dartmouth* does not now apply to leaseholds. "Draughtsman" points out that the statement in "Jarman" is supported by a similar statement in "Theobald on Wills," and suggests that I should deal with the question in this column.

In the first place it will be as well to state what the rule in *Howe* v. *Lord Dartmouth* really is.

I will take the statement of the rule as given in the two text-books mentioned.

In "Jarman" (at p. 1207) it is put as follows:—

"It remains to be considered how far the preceding rules" (i.e., rules relating to property subject to a trust for sale) "apply to cases in which the residuary clause contains no trust for conversion express or implied as when a testator simply bequeaths all the residue of his personal estate to A for life and after his death to B absolutely. In such a case if the residuary estate consisted of hazardous or wasting property (as, for instance, speculative investments or leaseholds with a few years to run) the result of a specific enjoyment of the property might be that B would obtain nothing. Acting on the assumption that the testator's intention was that B should not suffer hardship, the court in order to give effect to this supposed intention of the testator requires the wasting property to be converted and invested in trust investments. If the property had not been wasting but reversionary, the converse result—that A might get nothing—might occur, so that the rule for conversion is also applied in the case of reversionary and other interests not producing income in favour of the tenant for life. This rule is called the rule in *Howe* v. *The Earl of Dartmouth*."

In "Theobald on Wills" (p. 625) the rule is more shortly stated as follows:—

"Where there is no trust to convert. In such a case the rule is that when a residue is given *en masse* to several persons successively, wasting property and property invested in a manner not authorised by the will, must be converted, unless it appears from the will that specific enjoyment by the tenant for life was intended."

It is therefore quite clear from both these text-books that the rule in *Howe* v. *Lord Dartmouth* applies only where there is no express or implied trust for sale.

Now the ground for the statement, the correctness of which was questioned by the reviewer of "Jarman," is s. 28 (2) of the L.P.A., which reads:—

"Subject to any direction to the contrary in the disposition on trust for sale or in the settlement of the proceeds of sale the net rents and profits of the land until sale after keeping down costs of repairs and insurance and other outgoings shall be paid or applied, except so far as any part thereof may be liable to be set aside as capital money under the Settled Land Act, 1925, in like manner as the income of investments representing the purchase money would be payable or applicable if a sale had been made and the proceeds duly invested."

The section, therefore, has no application except where land is held on trust for sale. The rule which I am discussing only applies where there is no trust for sale, and, indeed, from its very nature, it can only so apply, and consequently the section has not made any alteration, so far as I can see, and the rule remains and must be applied as before.

Re Brooker [1926], W.N. 93, 70 SOL. J. 526, which is cited in "Jarman" as an authority for the statement that the rule

no longer applies to leaseholds, was a case where a testator gave all his residuary estate upon trust for sale with power to postpone the sale, and the rule had no application.

Where the *Howe* v. *Lord Dartmouth* rule applies, or where there is a trust for sale, equity, regarding that as being done which ought to have been done, will adjust matters as between the tenant for life and the remaindermen, so that, as nearly as may be, the parties are in the same position as if a sale had taken place. That equitable rule gave place to any express or implied intention to the contrary in the will. Now, by virtue of s. 28 (2) of the L.P.A., that equitable rule no longer applies where there is a trust for sale—but it is not the rule in *Howe* v. *Lord Dartmouth*.

"Draughtsman," however, raises the question whether the sub-section does not apply, because under the *Howe* v. *Lord Dartmouth* rule all leaseholds which are part of a residuary gift must be converted, or, if not converted, treated as such, as between tenant for life and remainderman. In other words, the suggestion seems to be that the rule creates a trust for sale within the meaning of s. 28 of the L.P.A.

The question is of some practical importance, for, if that suggestion is right, leaseholds which are part of a residue bequeathed to persons in succession are not settled land, but are held upon trust for sale, although there is no express trust for sale in the will, nor any such trust arising under the will by implication.

I cannot accede to that proposition.

I think that, in order to bring s. 28 (2) of the L.P.A. into operation, there must be a trust for sale, express or implied, independently of the rule.

It seems rather futile to invoke the rule in order to imply a trust for sale only for the operation of it to be nullified by s. 28 (2) of the L.P.A.

I therefore arrive at the same conclusion as the reviewer of "Jarman." In my view of the matter, leaseholds being part of a residue given to persons in succession, are settled land and are not held upon trust for sale unless a trust for sale is expressed in or to be implied from the will itself.

I must, however, refer more particularly to *Re Brooker*.

In that case a testator gave the residue of his estate to trustees upon trust for sale with power to postpone the sale at their discretion, and after payment of his debts to stand possessed of the residue in trust for such of his children as being sons attained or should attain twenty-five, or, being daughters, attained or should attain twenty-one, in equal shares. The testator then settled the daughters' shares. The residue included leasehold property.

Lawrence, J., held that "having regard to s. 28 (2) of the L.P.A., the principle laid down in *Howe* v. *Lord Dartmouth* hitherto applied by courts of equity during the period of the postponement of the sale of leaseholds held on trust for sale" was no longer applicable. It is obvious that the learned judge was referring to the equitable rule or principle as to adjustment between tenant for life and remainderman which followed upon the application of the rule in *Howe* v. *Lord Dartmouth*, and not to the latter rule itself. The equitable rule or principle regarding adjustment was the same whether there was a trust for sale or not, but, as the learned judge held, it does not now apply where there is a trust for sale.

Another case mentioned in "Theobald on Wills," is *Re Trollope's Will Trusts* [1927] 1 Ch. 596.

There, a testatrix gave her residuary real and personal estate to trustees upon trust for sale and to hold the net residue and the investments thereof in trust to pay the income to her sister during her life with trusts over. There was an investment clause, and a proviso authorising the trustees to postpone a sale during such period as they should think fit. The residuary estate included a number of investments not authorised by the will, a sale of which had been postponed by the trustees.

Tomlin, J., held that the rule in *Howe* v. *Lord Dartmouth* applied in regard to the retained unauthorised investments. In the course of his judgment the learned judge, after referring to the decision in *Re Brooker*, is reported to have said, "Therefore, so far as leaseholds held in trust for sale are concerned, the rule of *Howe* v. *Lord Dartmouth* is gone."

Here, again, I think that what is meant by "the rule in *Howe* v. *Lord Dartmouth*" is not the rule itself but the equitable rule regarding adjustment between tenant for life and remainderman which followed upon the application of the former rule.

These cases do not seem to me to justify the statement that the rule in *Howe* v. *Lord Dartmouth* no longer applies to leaseholds.

Landlord and Tenant Notebook.

Civil Jurisdiction of the Police Court.

The machinery of the police-court (as it is now commonly called) was first placed at the disposal of landlord and tenant in relation to civil offences by the Distress for Rent Act, 1737. The first part of this statute, which extends the law of distress to goods clandestinely or fraudulently removed from the premises, gives the landlord or his agent the right to recover double the value of the articles as long as the value be under £50. The procedure is a complaint to two justices in writing; writing is essential (*Coster* v. *Wilson* (1838)); on this the justices summon parties and witnesses, examine them on oath, and, if satisfied, make the necessary order. Disobedience to this order can be enforced by distress or committal; but, while the defendant is referred to as an "offender," the better opinion seems to be that the order is not a conviction. This is the effect of s. 4; s. 7 of the same Act places a landlord following goods fraudulently removed in a better position than a distrainor attempting to levy on the premises; for, after swearing before a justice that there are reasonable grounds for suspecting that the goods are concealed in a dwelling-house, he may break into that house and seize them.

A later section (s. 16) of the Distress for Rent Act, 1737, as amended by the Deserted Tenements Act, 1817, provides machinery for forfeiture. The subject-matter of this legislation is premises let at a rack rent, six months' arrears of which is owing, which premises are shown to be deserted. (Originally the procedure applied only if there were a proviso for re-entry on non-payment of rent; this was altered by the second-mentioned statute, which also declared that the manner of letting was immaterial.) In this case the justices are set in motion by a "request" (in *Basten* v. *Carew* (1825), 3 B. & C. 649, it was held that no oath was necessary and the justices' record of proceedings was a conclusive answer to an action for trespass); they then view the premises, affix a notice announcing a second visit two weeks hence; and if on that occasion no one appears with the rent, they make an order putting the landlord into possession and avoiding the lease or tenancy.

Jurisdiction in ejectment was bestowed by the Small Tenements Recovery Act, 1838. It does not apply to terms longer than seven years, nor when the rent exceeds £20; this latter circumstance has, of course, reduced its usefulness of late years. But as, apart from the fact that tenements at rentals within the required limit are said to be again coming into the market, the procedure is worth noting because it has been applied to various classes of property, regardless of value, by subsequent statutes, e.g., the Small Holdings Acts, the Education Act, 1921, the Housing Act, 1925 (enforcement of closing orders). Nor may justices, from modesty or other motives, urge parties to go to the county court instead: *R.* v. *Kent Justices, ex parte Triplow* (1927), 137 L.T. 25.

The procedure is simple, the form of notice required to be served before the court can act being set out in the schedule. The order made must, however, be executed not before twenty-one days and not later than thirty days after it is made, and these requirements must be strictly complied with: *R.* v. *Hopkins* (1900), 64 J.P. 454, 602.

In the same year the Pluralities Act gave petty sessions a limited jurisdiction in ejectment in the cases of rectories, etc., let in contravention of its provisions; the matter is rather one of ecclesiastical law than part of the law of landlord and tenant.

The Law of Distress Amendment Act, 1895, gives the police court jurisdiction in disputes arising out of the Law of Distress Amendment Act, 1888; restoration of privileged bedding, tools, etc., can be ordered, or payment if they have been sold. The court is also competent to administer the provisions of the Law of Distress Amendment Act, 1908, which virtually supersedes the Lodgers' Goods Protection Act, 1871, and protects (subject to exclusions which may involve difficult points of law) the property to third parties. Lastly, disputes as to the ownership of cattle and other differences arising out of the provisions of the Agricultural Holdings Act, 1923, relating to privilege from distress may be decided by justices.

Magistrates, then, may be expected to have a good working knowledge of many branches of the law of landlord and tenant and kindred subjects, including the right to distrain, the numerous classes of goods privileged from distress, the exceptions such as goods comprised in a hire-purchase agreement; and of the many ways in which a tenancy can determine.

Our County Court Letter.

INJURIES TO OUT-DOOR SPECTATORS.

During the ensuing few months many sports, carnivals and fêtes will doubtless be held on grounds lent for the purpose, but the fact that the owners make no charge will not exempt them from liability for accidents. This is shown by the recent case of *Carr* v. *Newcastle United Football Club Limited* and the *Newcastle Schools Athletic Association* at Newcastle-on-Tyne County Court. The plaintiff was a schoolboy, aged fourteen, who attended the first defendants' ground as a spectator of the match Newcastle Boys *v.* Sheffield Boys, and he sustained a fractured arm through tripping on a broken board on a terrace step. The control of the ground was divided between the two defendant bodies, and the plaintiff's case was that (1) the association had caused the match to be played, and by issuing advertisements had invited the general public to attend, (2) the club had nevertheless to a large extent retained possession of the ground, and were responsible for seeing that it was reasonably safe, and not in such a condition as to furnish an element of danger to the users. The defence of the association was that they were not occupiers of the ground, and therefore, were under no liability. The club contended that (1) the match was not a joint adventure, as there was no common business interest, and no profit was to accrue to the club; (2) the ground had been lent gratuitously from philanthropic motives (as in previous years), and the only deductions from the receipts were (*a*) the cost of whisky and port consumed by the guests of the association, (*b*) the wages of the gatekeepers, who were the only persons employed by the club on that particular occasion, but the effect of deducting their wages from the receipts meant that the cost was borne by the association. His Honour Judge Sir Francis Greenwell held that the club were in actual occupation of the ground on the afternoon in question, and he gave the following judgments: (1) in favour of the Schools Association, with costs against the plaintiff, (2) against the club for £250 (the case having been remitted from the High Court) with all the costs of the action and a stay of execution pending appeal.

The leading case on this subject is *Francis* v. *Cockrell* (1870), L.R. 5, Q.B. 501, in which the plaintiff had been injured by the collapse of part of the grandstand at Cheltenham Steeplechases. The defendant was a member of the committee, who had employed a gatekeeper to charge the public 5s. each for admission to the stand, which had been erected by a competent firm of builders. The Court of Queen's Bench held that the plaintiff was entitled to judgment, and this was upheld in the Exchequer Chamber, where Chief Baron Kelly pointed out that there was an implied promise that the plaintiff should have a seat, and that on his payment of the admission money an implied contract arose. It was immaterial that the proceeds went to the race fund, from which the committee derived no personal benefit, and there was no difference between such a case and one in which a man lets a seat upon a stand for his own personal gain. The defendant was not, therefore, exempt from liability by the circumstance that he received the money for the purpose of extending the amusement and enjoyment of the public.

It was held in the last-named case that the position of those who provide places for spectators at races or other exhibitions is governed by the same reasoning as that applicable to the case of railway companies. Negligence with regard to stands is therefore governed by decisions relating to defective coaches, such as *Redhead* v. *Midland Railway Company* (1869), L.R. 4, Q.B. 379. The facts of the first-named case, *supra*, fall within another line of decisions, as exemplified in *Norman* v. *Great Western Railway Company* [1915] 1 K.B. 584. The plaintiff had sent for some sacks of flour from Penygraig Station, and, while the driver was in the weighing office, the horse had backed the cart down a sloping bank into a culvert. Damages were claimed against the company for negligence in not fencing the bank, and judgment was obtained at Pontypridd County Court for £37. This was upheld in the Divisional Court, but the decision was reversed in the Court of Appeal—on the ground that the company's duty was no higher than that of the occupier of private premises towards invitees resorting thereto, in the ordinary course of business, as laid down in *Indermaur* v. *Dames* (1867), L.R. 2, C.P. 311.

The cases relating to injuries arising from the dangerous nature of the performances were discussed in a "County Court Letter" entitled: "The Responsibilities of Dirt Track Proprietors," in our issue of the 27th April, 1929 (73 Sol. J. 264).

Practice Notes.

THE RIGHTS AND LIABILITIES OF DAIRY FARMERS.

In the recent case of *Lewis* v. *Leedham*, at Burton-on-Trent County Court, the plaintiff claimed £24 16s. as damages for breach of warranty on the sale of a milking cow. The cow had been offered for sale at Derby Market, where the auctioneer had stated that she had "calved last Wednesday, right and straight," and the defendant had also said: "I sell her right and straight." On the following day the cow had a cough, which might have been due to congestion of the lungs through standing in the open market, but the case was reported to the Leicestershire veterinary officer, who diagnosed the complaint as tuberculosis. The cow was accordingly slaughtered, and a post mortem examination revealed that the condition must have been present for twelve months. The plaintiff accepted the view that the disease had been dormant, and that the defendant had given the warranty in ignorance, but the £3 received for the carcase did not compensate for the loss. The defendant's case was that "right and straight" did not apply to latent defects, but only to conditions which could be observed on casual examination, and that, therefore, no warranty was implied. His honour Judge Procter rejected this contention, and gave judgment for the plaintiff, with costs.

Other aspects of this subject were discussed in a "Practice Note" entitled: "Sales of Milk Recorded Cattle," in our issue of the 22nd March, 1930, 74 Sol. J. 183, and in a "County Court Letter" under the above title in our issue of the 29th March, 1930, 74 Sol. J. 198.

DAMAGE FROM COLLIERY WORKINGS.

A question of liability for the above was recently considered at Monmouth County Court in *Ind Coope & Co. Ltd.* v. *Pardow and Perkins*, in which the plaintiffs claimed £7 10s. from the defendants as owners of the Darkhill Colliery in the Forest of Dean. All minerals thereunder are the property of the Crown, but free miners (whose names are registered at the Crown Offices, Coleford) may obtain a licence known as a "gale." The galees are entitled to enter any person's land, and drive a shaft or slope to work the coal, subject to compensation fixed by the deputy gaveller under a surface damage award, viz., a sum down and further periodical payments. The plaintiffs' case was that, after notice to the defendants in October, 1928, an award had been made in November, 1928, of £4 forthwith and £2 a year afterwards, payable half-yearly. This award had been sent to the defendants, as the registered owners, at the local address of the second defendant. The first defendant denied liability on the grounds that (1) he had dissolved partnership in December, 1924, and that the award only came to his knowledge about April, 1929, when he took over the affairs of the second defendant; (2) he had no opportunity of putting his case to the deputy gaveller; (3) the award related to waste ground, where there was no question of working a shaft or slope. His Honour Judge L. C. Thomas observed that the award was a kind of re-assessment, of which the defendants were entitled to notice, but the Dean Forest Mines Act only required notices to be served or left at the usual place of abode of the party required to pay the award. The first defendant might feel it a hardship that the notices were not forwarded to his address at Walsall (Staffordshire), but, as there had been substantial compliance with the statute, it was held that both registered owners were responsible, and judgment was given accordingly.

LANDLORD'S LIABILITY FOR TRESPASS.

In the recent case of *Wall* v. *Chidlow*, at Wellington County Court, the plaintiff claimed £100 as damages for trespass during her tenancy of a cottage, possession of which had since been obtained by the defendant as owner. The defendant had bought the cottage in May, 1929, for £100, and had requested the plaintiff to move into a portion used by the previous landlord as a store-room. On the plaintiff's refusal, the defendant himself occupied the annexe, and planks of wood and rubbish were thrown on to the plaintiff's garden. Her coal was also thrown out of the pigstye, and the defendant built a shed in the plaintiff's garden, but the culminating act of trespass was the cutting of a hole, measuring 2 feet 8 inches by 1 foot 6 inches, in the dividing wall, so that only the wallpaper separated the two living rooms. The defendant's case was that he had permission to cultivate the garden, and had stored some furniture in a rough shed he had erected over the pigsyte. There had been an old cupboard in a recess on his side of the wall, and he had knocked this out and removed some of the stones, but several thicknesses of wallpaper remained, and his operations were not designed to force the plaintiff to quit. His Honour Judge Ivor Bowen, K.C., held that the defendant had ignored the Rent Restrictions Acts, and had adopted a course of conduct devised to frighten the plaintiff and worry her to give up possession. After a series of pinpricks, the defendant had taken the law into his own hands by knocking a hole through the wall, and, as this was a gross act of trespass, judgment was given for the plaintiff for fifty guineas and costs. Compare a "County Court Letter" entitled "Ejectment by Removal of Roof," in our issue of the 1st March 1930 (74 Sol. J. 134).

Legal Parables.

LI.

The Eminent Counsel and the Elderly Clerk.

An eminent counsel had to defend a Somewhat Worthless Fellow for a war-time offence, which came to light only after a considerable time. The eminent counsel scanned his brief and hastily glanced at the Order in Council under which the charged was framed. Then, satisfied that he had found a Fatal Flaw in the summons, he proceeded to the police court.

An elderly clerk, who had known the eminent counsel for many years, during some of which he had not been quite so eminent, greeted him with a pleasant smile and a friendly "Good morning." He received but a cool nod. This, though the elderly clerk could not know it, was due to the necessity of One Who had just been offered a judgeship beginning to observe a proper distance between himself and Lesser Men.

When the defence was opened the eminent counsel began to state his point.

The elderly clerk, perceiving it to be a false one, spoke in an undertone to the eminent counsel and tendered him a copy of a revoked order, which was yet in point. Counsel took the interruption ill, and begged a little petulently, that the learned clerk would not interfere with the Development of His Defence, which he then proceeded to develop.

The elderly clerk apologized, somewhat grimly, and immediately made an even more elderly usher despairingly busy in fetching One Large Volume after Another, until he had accumulated a Vast Pile of Books. This further irritated the eminent counsel, and when he had sat down, and the elderly clerk began to whisper lengthily to a bench of unusually intelligent magistrates, he could contain himself no longer, and wished aloud that he could hear what the learned clerk was saying.

His invocation was attended to neither by gods nor men. The bench then gave judgment, learnedly revising the history of the particular piece of legislation by the new despotism, convicting the accused of the offence charged and eminent counsel of having missed the point.

Is it not, contrary to the *dictum* of the great Gœthe, safe in all cases, to place yourself before Those Who Know.

Quite soon the eminent counsel took his seat on the judicial bench, so that the other moral is *Palmam qui meruit ferat.*

Correspondence.

"Jarman on Wills."

Sir,—I notice that in the review of "Jarman on Wills" which appears in the current number of The Solicitors' Journal, a doubt is raised with regard to the correctness of the statement that the rule in *Howe* v. *Lord Dartmouth* does not now apply to leaseholds. There is a similar statement in the latest edition of "Theobald on Wills." The opinion of your reviewer is therefore opposed to that of the learned editors of both these well-known text-books. The subject has been discussed recently in another legal journal, and as there is evidently much difference of opinion about it, I write to ask whether the matter could be ventilated in your columns. Perhaps your learned contributor who writes the "Conveyancer's Diary" would expound his views.

I must say that as the rule referred to requires trustees to sell leaseholds which are part of a settled residue, I have so far considered that s. 28 (2) of the Law of Property Act, 1925, applies and excludes the rule, which appears to be the opinion of the editors of the two text-books which I have mentioned.

London, 10th May. "Draughtsman."

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Friendly Society—Vesting of Property in Trustees of.

Q. 1908. In 1880, certain freehold property was conveyed to A, B and C, their heirs and assigns, to the use of A, B and C, their heirs and assigns for ever. In fact, A, B and C were the trustees of a Lodge of Oddfellows, though no mention of this fact was made in the conveyance. A, B and C died many years ago, but it is not known whether the survivor of them died before or after the Land Transfer Act, 1897. The secretary of the Lodge has now contracted to sell the property and the purchaser has been asked to accept a conveyance from the present trustees of the Lodge with a statutory declaration to the effect that the Lodge has been in possession or in receipt of the rents and profits for twenty years and upwards.

(*a*) Did the legal estate, on the death of the survivor of A, B and C vest in his personal representatives if he died after 1897, and in his heir-at-law or devisee of trust estates, if he died prior to that date ?

(*b*) Did any, and if so, which of the transitional provisions of the L.P.A., 1925, operate to vest the legal estate in the trustees of the Lodge on 1st January 1926 ?

(*c*) Is the purchaser entitled to insist upon the legal estate being traced and conveyed to him ?

A. (*a*) No. All the property of the registered friendly society vested in the trustees thereof for the time being for the use and benefit of the society and its members.

(*b*) No. See (*a*) *supra* and s. 49 of the Friendly Societies Act, 1896.

(*c*) We do not think that any useful purpose will be served by demanding evidence of all the changes in the trustees since 1880. A statutory declaration to prove that A, B and C were the trustees of the Lodge at the date of the purchase, and that they bought with money of the Lodge, coupled with the certificate of the Registrar that the proposed vendors are the present trustees, is all that appears necessary. We think that the purchaser should satisfy himself that the purchase of 1880 was such a one as the Lodge could properly make.

Local Authority—Acquisition of Land for Sewage Works—Nuisance—Restrictive Covenants.

Q. 1909. A local authority for the purpose of the disposal of sewage intends to acquire a plot of land for the purpose of erecting thereon a pumping station under s. 27, Public Health Act, 1875. The site is in a populated residential neighbourhood and general objection is being raised on the grounds that the pumping station will be a nuisance. The land upon which the local authority intend to erect the pumping station is subject to restrictive covenants entered into for the benefit of the adjoining owners not to erect thereon any building which will obstruct their view, and that no work or manufactory or machine shall be placed thereon which shall be a nuisance or injury to the adjoining owners. Can the local authority, in face of these covenants, ignore the rights of the persons for whose benefit these covenants were entered into ? In the compulsory acquisition of this land has the local authority power to remove the restrictive covenants attaching to the land ? If so, what steps (if any) must they take to discharge the land from the said covenants and under what authority ?

A. Property taken under a statute, such as the Public Health Act, 1875, with which the Land Clauses Act, 1845, is incorporated, is taken free of restrictive covenants, and the covenantee's remedy is to claim compensation under s. 68 of the last-mentioned Act: see *Kirby* v. *Harrogate School Board* [1896] 1 Ch. 437; *Long Eaton Recreation Ground Co.* v. *Midland Railway* [1902] 2 K.B. 574. If there is, however, a serious common law nuisance created by the sewage works, an injunction can be obtained: see, amongst other cases, *Hobart* v. *Southend-on-Sea Corporation* [1906] 75 L.J. K.B. 305, and an injunction (in different circumstances) obtained by a private individual in the recent case of *Manchester Corporation* v. *Farnworth*, 63 Sol. J. 818.

Land Tax—Apportionment.

Q. 1910. In the year 1927, A purchases a building site from B, the land purchased forming part of a farm of 200 acres, belonging to B. A had no knowledge at the time of the farm being subject to any land tax. In due course A erects a row of houses on the land purchased, and now receives a demand from the tax collector for land tax in a considerable sum. In answer to his enquiry he is informed that, following his purchase, the tax on the farm was apportioned, as between the building site and the remainder, and the almost negligible amount of the assessment on the building site was increased when the houses were built, thus causing the present situation. A never received any demand for land tax at the original apportioned amount, nor did he receive any notice of apportionment. Was he not, as the owner of the land affected, entitled to formal notice of apportionment ? Or has he any, and if so what other remedy in the circumstances ?

A. All land with certain immaterial exceptions is subject to a charge for land tax unless the tax has been redeemed. Anyone developing a building estate should take the precaution of redeeming the tax or ascertaining that it has been redeemed. As land tax is chargeable on gross annual value there is no need for notice of apportionment, though the taxpayer may appeal after demand on the ground that the value on which assessment is made is incorrect. Apart from this A has no legal remedy. It is just possible that the Inland Revenue authorities might make an *ex gratia* allowance on an application to redeem on the ground that A was misled by reason of the collector not having demanded tax on the land, but we do not think it likely.

Rating of Sporting Rights over Agricultural Land—No Lease by Deed.

Q. 1911. Referring to the answer to *Q.* 1876, the shooting over an agricultural estate has been let to a shooting tenant; no deed or formal agreement having been entered into. The rating authorities have rated the person who receives the rents, including the shooting rents, who is a tenant for life under the S.L.A.; and have demanded payment of the amount of the rate; and threatened proceedings in default of payment. Are the rating authorities justified in the attitude which they have adopted, seeing that agricultural land is not now liable to be rated ?

A. A verbal agreement to let sporting rights creates no legal interest in them, though if the tenant has received the benefit the agreed rent can be recovered (*Thomas* v. *Frederick* (1847), 10 Q.B. 775). On the authority of *Swayne* v. *Howells* (1926), 43 T.L.R. 14, rates cannot be recovered from the sporting tenant. The question of rating reserved sporting rights not let is now before the Divisional Court on special case (*Lord Hastings* v. *Revenue Officer, West Norfolk*). The case is adjourned for further hearing and the decision may affect the whole question of the rating of sporting rights not let by deed. It will probably, however, be taken to a higher court. It is suggested the rating authority be asked to defer proceedings pending the result of this decision.

Dressmaker's Length of Notice.

Q. 1912. The chief alterations hand in a gown business gives notice to determine her service forthwith on a *Tuesday* and pays her salary, £2 10s. in lieu of notice as from the commencement of the following Monday. She now claims payment for the two days—Monday and Tuesday—she has worked. Is her claim tenable ?. I maintain that she is not, as she is under a duty to work a complete week before she can give notice, as the working week is from Monday to Saturday, and in view of her sudden quittal in the middle of a week she has put the management to considerable loss and they should be able to claim damages. On what basis (if any) could these damages be assessed ? Is her position affected by any Employment or Trade Board Acts ?

A. The contract of service is weekly, and cannot be altered to a day to day contract unless by mutual agreement. The employee admitted this by paying her salary in lieu of notice from the following Monday, shewing thereby that she should have been at work all the previous week. Not only has she no claim for the two days worked, but her absence on the other three days is a breach of contract. The amount of damage recoverable is that directly flowing from the breach, e.g., orders lost by delay, overtime paid to other workers, manager's loss of time finding a substitute, and wages paid to the latter. The Trade Boards Act and Unemployment Insurance Act do not affect the position, unless the pay or conditions were so bad that the employee was justified in leaving, but this is apparently negatived by her payment in lieu of notice.

Arrears of Housekeeper's Wages.

Q. 1913. Miss A lived with and acted as housekeeper and companion and collected numerous weekly rents for and did other work for Miss B for the nine years preceding her (Miss B's death). When Miss A first accepted the situation it was verbally agreed that she should be paid £1 per week. Miss B never paid Miss A anything. Miss A raised the question from time to time and Miss B promised at an early date to attend to the matter and pay off all arrears and to pay the weekly wage regularly in the future. Miss B made numerous excuses for not attending to the matter, but Miss A only stayed on on the distinct understanding that Miss B would, at an early date, attend to the matter. Miss B died recently and Miss A is now claiming against her executors for six years' arrears of wages at £1 per week. I have advised her that she can not in any case claim for more than six years' arrears. Miss A can produce no written evidence to support her story, but assuming it is true and that no rebutting evidence can be produced, has Miss A, in your opinion, a legal claim for the six years' arrears of wages ? The executors know something about the matter, and are, I think, sympathetic, and if the case was litigated I think their evidence would support Miss A's story. There are, however, a lot of hungry residuary beneficiaries (first and second cousins) and the executors dare not pay unless legally justified or even compelled to do so.

A. The questioner's view is correct that Miss A has a legal claim for the six years' arrears of wages, as, even without a written contract, she is entitled to reasonable remuneration on a *quantum meruit*, and £1 a week is a reasonable salary for the multifarious duties performed. Damages might also be claimed for a breach of the contract to pay the first three years' arrears, at any time within the six years preceding the death, but it is doubtful whether this method of pleading would avoid the effect of the Statute of Limitations. The only evidence is on the side of Miss A, and, if she issues a writ, the executors will have no justification for disputing the claim up to a trial, but should settle on delivery of the statement of claim.

Injury to Workman's Eye

Q. 1914. In 1923 a workman, who was a miner, received injuries to his right eye from an accident arising out of and in the course of his employment. He was paid compensation under the Workmen's Compensation Act, 1906, for a time, but having become quite capable of doing his work as a miner and earning thereat his former wages, the employers stopped the weekly payment for compensation. Early this year, *on account of economic conditions*, the workman's employment was terminated. Application has been made to the employers to continue the compensation payments, but they have declined to do so. A medical report has been obtained stating that the man's eyesight is *permanently* injured. It is quite obvious to any person looking at him that he has partially lost the sight of his eye and despite every endeavour he is unable to get employment. No doubt he is handicapped in his endeavour to obtain work as a consequence. Your opinion is asked as to whether, in the circumstances, the employers are liable to pay compensation, and, if so, at what rate and upon what basis will the same be assessed. Kindly quote authorities.

A. The above facts are governed by *Tannoch* v. *Brownieside Coal Co. Ltd.* [1929] A.C. 642, as (although the miner in the present case has not lost the sight of his injured eye) the disfigurement is obvious. He is therefore entitled to be paid compensation, and the arbitrator may even hold that there is total incapacity, as in the above case. The miner will not be entitled to compensation, however, prior to the date in this year upon which the employment was terminated. See *Lomax* v. *Sutton Heath and Lea Green Collieries Ltd.* (1926), 19 B.W.C.C. 301. The subsequent rate and basis of the award will depend upon whether the court finds total or partial incapacity, but there is apparently evidence to justify the former finding.

Annual Meeting in Company's First Year.

Q. 1915. Section 113 of the Act relating to the holding of a statutory meeting does not apply to a private company. Under s. 112 of the Act every company has to hold a general meeting once at least in every calendar year. It would therefore appear that if a private company is formed in—say—December of one year, in order to comply with s. 112 it is necessary for that company to hold an annual general meeting in that year. The holding of an annual general meeting would, prior to the new Act, no doubt have been complied with by the holding of a statutory meeting, but seeing that this is no longer applicable to a private company, s. 112 apparently puts the onus on the company of having to hold an annual meeting in its year of formation, *whatever be the date on which the company is registered.* We should like to know if you agree with our views on the sections referred to, and also to have your views as to what is to happen in the event of a private company being registered on 30th or 31st December in any year, so that it is impossible to give the usual seven days' notice of such meeting. If our views are correct, we think it is very likely that the directors may easily overlook that they are bound to hold an annual meeting in the year of their formation, and the matter is of some importonce, seeing that there is a penalty of £50 for default in compliance with the section.

A. The questioner's views on the above sections are technically correct, and therefore the first duty of any company formed in December is to hold an annual meeting, provided the date of formation leaves time to give the requisite notices. Private prosecutions under the Companies Acts are discouraged, however, and it is highly improbable that any official action would be taken in the absence of any of the mischiefs contemplated by the Act. The opinion is therefore given that there need be no apprehension of penalties, in the event of any technical breach of the Act late in the first year of a company's existence.

A UNIVERSAL APPEAL.

To Lawyers: For a Postcard or a Guinea for a Model Form of Bequest to the Hospital for Epilepsy and Paralysis, Maida Vale, W.9.

Notes of Cases.

Court of Appeal.

Restall *v.* Restall.

Lord Hanworth, M.R., Lawrence and Romer, L.JJ.

29th April.

HUSBAND AND WIFE—DIVORCE—PETITION FOR MAINTENANCE—CONDUCT OF THE PARTIES—COURT WILL CONSIDER CONDUCT BEFORE, AS WELL AS AFTER, MARRIAGE—SUPREME COURT OF JUDICATURE (CONSOLIDATION) ACT, 1925 (15 and 16 Geo. 5, c. 49), s. 190.

Appeal from a decision of Bateson, J.

After dissolution of a marriage the wife petitioned for maintenance. The husband put in an answer which, after stating his view of the financial position of the parties, contained four paragraphs alleging that his wife had had illegitimate children before marriage, that he had not known of the birth of the last child until after he had married her, and that she had treated him badly in certain specified ways. At the end of the answer he asked that a *dum casta* clause should be inserted in any order made. The registrar struck out the four paragraphs, as not relevant, and Bateson, J., affirmed his action in doing so. The husband appealed.

The Court allowed the appeal. Lord HANWORTH, M.R., said that petitions for maintenance were brought under s. 190 of the Supreme Court of Judicature (Consolidation) Act, 1925, which directed that besides the financial position of the wife and husband the court should consider "the conduct of the parties." It had been urged that that meant only their conduct since marriage, but there might be cases, as where a *dum casta* clause was under consideration, where conduct before marriage was also relevant. In *Wood* v. *Wood* [1891] P. 872, it was said that such a clause would be an insult to a woman of spotless character, but in *Kettlewell* v. *Kettlewell* [1898] P. 138, the court noted that the wife had not been chaste before marriage, and that she had been divorced, and they imposed the *dum casta* clause. The order striking out the four paragraphs would therefore be set aside, and the petition go back for consideration upon that footing.

COUNSEL: *Serjeant Sullivan*, K.C., and *Tyndale*, for the appellant; *Willis*, K.C., and *Bucknill*, for the respondent.

SOLICITORS: *Bulcraig & Davis*; *F. G. Bowles.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

H. S. Wright & Webb *v.* Annandale.

Scrutton, Greer and Slesser, L.JJ. 5th May.

HUSBAND AND WIFE—COSTS—DIVORCE PROCEEDINGS—CLAIM FOR WIFE'S COSTS IN DEFENDING—"NECESSARIES"—ALLEGED ADULTERY—HUSBAND'S LIABILITY TO WIFE'S SOLICITORS.

Appeal from a judgment of Humphreys, J., in an action tried with a common jury (74 SOL. J., 169).

The plaintiffs, H. S. Wright & Webb, solicitors, claimed to recover from the defendant, Arthur James Annandale, the sum of £130 5s. 1d., alleged to be due from him as the balance of professional costs necessarily incurred by, and moneys spent on behalf of his wife, Eileen Dora Annandale. The defendant denied that the services were necessarily incurred by his wife, and said that the prices charged were not reasonable. The defendant's wife consulted the plaintiffs and instructed them to act on her behalf in proceedings against the defendant for judicial separation, on the ground of alleged cruelty. Accordingly, on the 3rd of April, 1929, they filed on her behalf a petition for judicial separation. Later on the defendant filed a cross-petition for divorce on the ground of his wife's alleged adultery. The petition alleged acts of adultery with certain named persons before the plaintiffs began to act for the defendant's wife. The defendant's wife abandoned her petition for judicial separation and withdrew the plaintiff's retainer before the cross-petition had reached the stage at which the plaintiffs could get an order for costs. The defendant's cross-petition was not defended, and a decree *nisi* was pronounced on the 30th January, 1930. The plaintiffs had been paid, by order of the Divorce Court, a certain sum in respect of their costs, and in this action they sued for the balance. The jury found on the evidence that the defendant's wife had committed adultery, and they returned a verdict for the defendant and judgment was entered accordingly. The plaintiffs appealed. The Court dismissed the appeal.

SCRUTTON, L.J., said that there was no misdirection by the judge at the trial, and there was evidence to support the finding of the jury. It had been contended on behalf of the appellants that the common law rule by which a solicitor acting for a wife could not recover his costs against the husband if the wife had been guilty of a matrimonial offence, irrespective of whether the solicitor knew of it or not, only applied when the wife was living in adultery, and did not apply in the case of an isolated act of adultery. No authority was cited in support of that proposition, and it was quite contrary to principle. The rule was that if a wife had been unchaste she ceased to be the agent of the husband, and was therefore unable to pledge his credit, and the distinction sought to be made in this case between a wife who had been guilty of one or two isolated acts of adultery and that of a wife who was living in adultery was unsound, and the point failed. Then it was contended that the rule only applied where the solicitor was acting for a wife who was the petitioner, and did not apply where she was defending a petition brought by her husband. But that proposition could not be supported. There was no ground for making any distinction in common law proceedings between a wife who was the attacking party and a wife who was the defending party, and that point also failed.

GREER and SLESSER, L.JJ., concurred. Appeal dismissed.

COUNSEL: *Croom-Johnson*, K.C., *J. W. Morris* and *G. A. Thesiger*, for appellants; *Cartwright Sharp* and *E. H. Blain*, for the respondent.

SOLICITORS: *H. S. Wright & Webb*; *Rubinstein, Nash & Co.*

[Reported by T. W. MORGAN, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Ideal Cleaners and Dyers, Ltd. *v.* West Middlesex Assessment Committee and Revenue Officer for West Middlesex.

Lord Hewart, C.J., Avory and Branson, JJ. 14th April.

LOCAL GOVERNMENT—DE-RATING—SPECIAL LIST—INDUSTRIAL HEREDITAMENT—RETAIL SHOP—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), ss. 1, 3 and 4.

In this appeal, stated under Baines' Act, the appellants, Ideal Cleaners and Dyers, Ltd., claimed to be entitled to have the hereditament known as 230, Northfields-avenue, Ealing, of which they were the occupiers, inserted in the special list under the Rating and Valuation (Apportionment) Act, 1928, as an "industrial hereditament." The appellants occupied a main factory and over 100 branches, including the present premises. The hereditament in question was occupied and used for the following purposes only: Receiving garments and articles for dyeing and cleaning and dispatching to the main factory for rough cleaning and dyeing; and finishing and pressing such garments and other articles on their return from the main factory, and for blocking hats. No goods of any description were offered for sale or sold there. The assessment committee had refused the appellants' application that the premises should be inserted in the special list as an "industrial hereditament." For the respondents it was contended that

the hereditament came within the proviso to s. 3 (1) of the Act of 1928, for two reasons: that although it might be occupied as a workshop to some extent, it was primarily occupied as a retail shop, and for other purposes which were not those of a factory or workshop.

Lord HEWART, C.J., said that it seemed to him clear that on the definition of "retail shop" in s. 3 (4) of the Act of 1928—("retail shop" includes any premises of a similar character where retail trade or business (including repair work) is carried on)—the premises in question were a retail shop and bore all the marks of a retail shop: *Inland Revenue* v. *Edinburgh Assessor* (1930), Sc.L.T. 205; and *Inland Revenue* v. *Coatbridge Assessor* (1930), Sc.L.T. 212. It was at any rate clear that it was not a workshop or factory; the branches were so many tentacles of the main factory. The assessment committee were right and the appeal would be dismissed.

AVORY, J., and BRANSON, J., concurred.

COUNSEL: *Sir Reginald Mitchell Banks*, K.C., and *R. O. B. Lane*, for the appellants; *the Attorney-General* (*Sir William Jowitt*, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the revenue officer; *A. M. Trustram Eve*, for the assessment committee.

SOLICITORS: *Simon, Haynes, Barlas & Ireland; the Treasury Solicitor; H. G. Greenwood.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Revenue Officer, Manchester *v.* Manchester Assessment Committee and Union Cold Storage Co. Limited.

Lord Hewart, C.J., Avory and Branson, JJ. 16th April.

RATING—DE-RATING—PREMISES USED FOR COLD STORAGE—NOT AN INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Case stated under Baines's Act.

The revenue officer appealed against the inclusion by the assessment committee in the special list as an "industrial hereditament" of a cold store occupied by the Union Cold Storage Co., Limited. The processes carried on in the premises consisted of freezing, chilling, de-frosting, trimming, and cutting and preparing carcases for sale, and, on occasion, special treatment of damaged cargoes. In the case of eggs special care and constant supervision was needed both in refrigerating and de-frosting.

The COURT were unanimously of opinion that the premises were primarily used for the purposes of storage, and were not an industrial hereditament. The appeal of the revenue officer was allowed.

COUNSEL: *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the Revenue Officer; *Konstam*, K.C., *Wilfrid Greene*, K.C., and *Granville Sharp*, for the Company.

SOLICITORS: *The Treasury Solicitor; Chas. H. Wright.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Revenue Officer, Poplar *v.* Poplar Assessment Committee and Liberty Oils Limited.

Lord Hewart, C.J., Avory, Branson, JJ. 16th April.

RATING—DE-RATING—OIL BLENDING FACTORY—AN INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c 44), s. 3.

Case stated under s. 40 of the Valuation (Metropolis) Act, 1869.

The revenue officer appealed against a decision of the assessment committee that a hereditament at Old Ford-road, Bow, being an oil blending factory, of which the respondents, Liberty Oils Limited, were the occupiers, should be entered in the special list as an industrial hereditament. The occupiers owned no vehicles for the transport of their commodities. Oil was received in bulk and required treatment before it was ready for sale.

The COURT were of opinion that the refining and blending of the oils so as to produce something quite different from any of the ingredients was a manufacturing process, and that the premises were primarily used for the purposes of a factory or workshop. The appeal of the revenue officer was accordingly dismissed.

COUNSEL: *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the Revenue Officer; *Singleton*, K.C., and *Trustram Eve*, for the respondents.

SOLICITORS: *The Treasury Solicitor; Kenneth Brown, Baker, Baker.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Revenue Officer, Camberwell *v.* Camberwell Assessment Committee and Watney, Combe, Reid & Co. Limited.

Lord Hewart, C.J., Avory and Branson, JJ. 16th April.

RATING — DE-RATING — BEER BOTTLING STORE — DISTRIBUTIVE WHOLESALE BUSINESS—NOT AN INDUSTRIAL HEREDITAMENT—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Case stated under s. 40 of the Valuation (Metropolis) Act 1869, in respect of a hereditament at Peckham, S.E., of which Watney, Combe, Reid & Co. Limited were the occupiers.

The revenue officer appealed from a decision of the assessment committee dismissing his objection to the inclusion of the hereditament in the special list as an industrial hereditament. The premises in question were one of a number of beer bottling stores occupied by the respondents, and was used solely in connexion with the respondents' trade as brewers. No brewing was carried on in the hereditament, but the beer, when received from the brewery, was treated and was ultimately sent out as "bottled beer." Seventy-five per cent. of the beer dealt with was carbonated.

The COURT held that the process of adapting the beer for sale ended with carbonation, which was a comparatively minor part of the processes carried on at the bottling store. They were of opinion that bottling was a part of "distributive wholesale business," and that the premises were primarily used for such business. They were not an industrial hereditament, and the appeal of the revenue officer was allowed.

COUNSEL: *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the Revenue Officer; *Wilfrid Greene*, K.C., and *Maurice Healy*, for the respondents.

SOLICITORS: *The Treasury Solicitor; Godden, Hulme and Ward.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Revenue Officer, Dudley *v.* Lloyds British Testing Co. Ltd.

Lord Hewart, C.J., Avory and Branson, JJ. 16th April.

RATING—DE-RATING—CHAIN AND CABLE TESTING PREMISES—WHETHER "INDUSTRIAL HEREDITAMENT"—RATING AND VALUATION (APPORTIONMENT) ACT, 1928 (18 & 19 Geo. 5, c. 44), s. 3.

Appeal by Lloyds British Testing Co. Ltd., on a case stated by the Recorder of Dudley, who had allowed an appeal by the revenue officer against a decision of the Dudley Assessment Committee by which an hereditament at Netherton, Dudley, owned and occupied by the appellants, was included in the special list under the Rating and Valuation (Apportionment) Act, 1928, as an "industrial hereditament." The premises in question were used for the purpose of testing, proving and finishing chains, cables and anchors in accordance with the Anchors and Chain Cables Act, 1899.

THE COURT, by a majority, AVORY, J., dissenting, were of opinion that the hereditament was primarily occupied for the purpose of testing cables, which was not a factory or workshop purpose. The company's task was not to adapt the cables for sale, but to see that they had been so adapted. The hereditament was not an industrial hereditament. The appeal was dismissed.

COUNSEL: *Comyns Carr*, K.C., and *John Wylie*, for the appellant company; *The Attorney-General* (Sir William Jowitt, K.C.), *Wilfrid Lewis* and *Colin Pearson*, for the Revenue Officer.

SOLICITORS: *Field, Roscoe and Co.*, for *Jobson and Marshall*, Dudley; *The Treasury Solicitor.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Lord HEWART, C.J., giving the judgment in the above four de-rating appeals, said, *inter alia*, in the first part of the judgment: The cases in this group raise a variety of questions under s. 3 of the Rating and Valuation (Apportionment) Act, 1928. It is convenient, before dealing with them individually, to consider the language used in the section to ascertain its precise meaning. The object of the section is to define and select a class of hereditaments which is to be relieved from rateability. This class is to include only hereditaments used as mines or mineral railways or as factories or workshops. But not all hereditaments used as factories or workshops are to be included in it. What is the test to be applied to discover what are the "primary purposes" for which a hereditament occupied and used as a factory or workshop is being occupied and used, and when that has been done to determine whether those purposes are or are not purposes of a factory or workshop? When one turns to the Act of 1928, to bring premises within s. 3, not only some of the purposes, but the primary purposes, must be (1) the making of any article or part of an article; or (2) the altering, repairing, ornamenting, or finishing of any article; or (3) the adapting for sale of any articles, and at the same time the primary purpose must not be any of the purposes specified in s. 3 (1) (*a*) to (*e*). It is necessary when deciding whether the purposes for which premises are used and occupied are factory and workshop purposes under the Act of 1928, to have regard to the use to be made of the product of the operations carried on in that hereditament.

Chancery of Lancashire.

In the Matter of the Estate of Elijah Murphy, deceased. Morton *v.* Marchanton

Vice-Chancellor Sir Courthope Wilson, K.C. 20th January.

POWERS OF EXECUTORS—ADVANCE NOT FOR PURPOSES OF ADMINISTRATION—EQUITABLE CHARGE—PRIORITY.

This was a summons *pro interesse suo* by the Union Bank of Manchester Limited, who asked for the enforcement of an equitable mortgage of shares and property belonging to the testator's estate made by the executor to the bank, in priority to the claims of the testator's unsecured creditors and to any indemnity to which the executor might be entitled. The testator, who died on the 14th May, 1926, by his will gave his executors full power to carry on his businesses of a builder and composition flooring manufacturer. There was a balance owing to the bank in respect of the two banking accounts relating to the testator's businesses of £5,061 19s. 1d., which was discharged by the defendant (the sole proving executor) out of realisations of the testator's property, on the 26th October, 1926. On the 26th and 27th October, 1926, respectively, the defendant, in consideration of the bank allowing him to overdraw the said accounts for the purpose of carrying on the testator's businesses, executed equitable mortgages by deposit to the bank of certain shares and of certain real property forming part of the testator's estate. On the 28th June, 1928, the plaintiff in the action, who sued as a creditor of the testator, obtained a judgment for the administration of the estate and for a receiver. By the terms of his appointment the receiver was "to receive the rents and profits of the real estate and to get in the remaining outstanding personal estate," and was also "to act as manager" of the business of the testator, with a view to its sale as a going concern.

The VICE-CHANCELLOR said that the law with regard to the powers of an executor in relation to carrying on the testator's business was stated in *Re East*, 111 L.T. 101, at p. 105, per Swinfen Eady, L.J., and in *Dowse* v. *Gorton* [1891] A.C. 1890 (upon which the respondents placed much reliance), at p. 199, by Lord Herschell. He did not think that it was open to the bank in the present case to say that they did not know that the business was being carried on longer than was reasonable and necessary for the purpose of its sale as a going concern. That being the case, the bank must be taken to have known that the advances were being made for purposes which were not purposes of administration: *Corser* v. *Cartwright*, L.R. 7 H.L. 731, per Lord Cairns, at p. 736, and per Lord Hatherley, at p. 741. The question then arose how far the plaintiff was entitled to set up that case against the bank. *Re Oxley* [1914] 1 Ch. 604, was distinguishable, for the present plaintiff had in his view by claiming the business as it stood at the date of the judgment approved the carrying on of the business, and had therefore disqualified herself from saying that the business was being improperly carried on. Her rights were therefore subject to those of the creditors subsequent to the testator's death, and *a fortiori* to the rights of the bank who had taken a mortgage on the footing that the carrying on of the business was proper. There would be a declaration that the applicants were entitled to a charge on the shares and property comprised in their security in priority to the debt due to the plaintiff and in priority to any indemnity to which the defendant might be entitled as executor, and an order for the usual accounts. The order would be without prejudice to the rights of any absent creditors of the testator; the costs of all parties would be costs in the action.

COUNSEL: For the applicants, *C. E. R. Abbott, R. A. Forrester*; for the plaintiff, *J. M. Easton*; for the defendant, *W. Taylor.*

SOLICITORS: *Tatham, Worthington & Co.; Wilfred Taylor; Richard Hankinson & Son.*

[Reported by T. C. OWTRHM, Esq., Barrister-at-Law.]

Societies.

Incorporated Society of Auctioneers.

The Scottish branch of the Incorporated Society of Auctioneers and Landed Property Agents have issued their syllabus upon which next year's examinations will be held in Scotland. The syllabus, the compilation of which was entrusted by the Council to Mr. J. A. Wiseman, manager of the Estate Department of Messrs. Jenners, Princes-street, Edinburgh, covers a wide field and appears admirably designed to secure the expert handling of all matters relating to the practice of an estate and property agent.

The Honorary Directors of Educational Studies are Sir Isaac Connell, J.P., S.S.C., and Councillor P. H. Allan, J.P., M.V.O., Chairman of the Education Committee, City of Edinburgh.

We understand that the Society is offering medals and certificates for proficiency, and that it is proposed to arrange scholarships tenable at the College of Estate Management or other educational institutes as decided by the Council.

University College of Hull.

LEGAL STUDIES.

At a meeting of Council of the University College of Hull, held on Friday, 2nd inst., it was reported that the Master of the Rolls had approved a petition submitted to him that the Department of Law of the College be recognised under s. 8 of the Solicitors' Act, 1922. Under the approved scheme any person who before entering into Articles of Clerkship has passed the Matriculation Examination of the University of London, and who has followed a course of study prescribed for the time being by the Senate of the University College of Hull and has subsequently passed the Intermediate Examination for the external degree in laws of the University of London, shall be capable of being admitted and enrolled as a solicitor without serving under Articles to a practising solicitor for more than four years.

Middle Temple.

Monday, the 10th inst. being the Grand Day of Easter Term at Middle Temple, the Treasurer (Master The Hon. Mr. Justice Horridge) and the Masters of the Bench entertained at dinner the following guests: His Eminence The Cardinal Archbishop of Westminster, the Earl of Inchcape, G.C.S.I., G.C.M.G., etc., the Lord Hawke, the Lord Dawson of Penn, G.C.V.O., K.C.M.G., etc., the Lord Warrington, the Lord Atkin, Lieut.-General the Lord Baden-Powell, G.C.M.G., G.C.V.O., etc., the Lord Macmillan, the Right Hon. Lord Justice Greer, the Hon. Mr. Justice Charles, the Hon. Mr. Justice Macnaghten, K.B.E., Sir Claud Schuster, G.C.B., C.V.O., K.C., Air Chief Marshal Sir John M. Salmond, K.C.B., C.M.G., etc., Sir William Llewellyn, K.C.V.O. (President of the Royal Academy), Colonel Sir St. John Corbet Gore, C.B., C.V.O., etc., N. Murray Butler, Esq. (President of Columbia University), the Rev. The Master of the Temple, Nathaniel Micklem, Esq., K.C. (Treasurer of Lincoln's Inn), Lt.-Col. R. V. Gwynne, D.S.O., The Rev. The Reader, and the Under Treasurer.

The Benchers present in addition to the Treasurer were: Master His Honour Judge Ruegg, K.C., Master A. Macmorran, K.C., Master Butler Aspinall, K.C., Master The Rt. Hon. Lord Craigmyle, Master the Rt. Hon. Viscount Dunedin, G.C.V.O., Master His Honour Judge Sir Alfred Tobin, K.C., Master the Rt. Hon. Lord Sankey, G.B.E., Master E. A. Mitchell-Innes, C.B.E., K.C., Master the Rt. Hon. Edward Shortt, K.C., Master C. F. Lowenthal, K.C., Master His Honour Judge Holman Gregory, K.C., Master St. J. G. Micklethwait, K.C., Master Sir Lynden L. Macassey, K.B.E., K.C., LL.D., Master Sir Cecil J. B. Hurst, G.C.M.G., K.C.B., K.C., Master Heber L. Hart, K.C., LL.D., Master the Rt. Hon. Lord Salvesen, Master the Rt. Hon. Mr. Justice Hawke, Master the Hon. S. O. Henn-Collins, C.B.E., Master the Rt. Hon. Viscount Finlay, K.B.E., Master Sir H. S. Cautley, Bart., K.C., M.P., Master J. Bruce Williamson, Master H. C. S. Dumas, Master S. J. Bevan, K.C., M.P., Master A. M. Sullivan, K.C., Master Sir Henry Curtis Bennett, K.C., Master J. G. Hurst, K.C., Master A. T. Miller, K.C., Master W. T. Lawrance, K.C., Master Cecil Whiteley, K.C., Master J. Scholefield, K.C., Master J. D. Cassels, K.C., Master E. H. Tindal Atkinson, C.B.E., Master W. Frampton, and Master His Excellency the American Ambassador.

American Law Reports for the Middle Temple.

The Middle Temple, which in the past has sometimes been referred to as the American Inn by reason of its excellent collection of American law reports, received on Tuesday, the 13th inst., a further presentation of some 2,000 American law reports and law text-books which now put that Society in possession of a complete collection of American law reports and law text-books—the finest in this country. This last presentation was the gift of the Carnegie Endowment for International Peace, and was made by Dr. Murray Butler, the President of the Trust.

Speaking in the Parliament Chamber of the Middle Temple, Dr. Murray Butler said that the books were for the use of the Middle Temple and those who came there for study and research in the law. The collection was established in the library as a symbol of goodwill and as a permanent record of the indebtedness of American jurisprudence to the common law of England. It did not seem out of place to dwell for a moment on some of the changed circumstances which seemed to make that symbol particularly significant and appropriate. The law in their country was undergoing rapid, substantial, and not always orderly change. It had been found by experience that the slow process of judicial interpretation to meet new conditions, new circumstances, had not been rapid enough or complete enough to satisfy public opinion. The result was an outpouring of legislation accompanied by an outpouring of judicial determinations which, he supposed, was quite unprecedented in the history of jurisprudence. A competent authority had recently stated in public that since the beginning of the century records of about 500,000 decisions had been handed down by the Courts of Record of the United States, and that at the same time about 250,000 statutes had been put on the books of the forty-eight States. It went without saying that under such a flood of legislation and judicial interpretation hardly any society could live intelligently or with full comprehension of what it all meant. The result had been that scholars of law were everywhere endeavouring to find ways and means for more speedily dealing with the new economic and social conditions which had developed in the past generation.

Much that the presented reports contained would not be germane to the thought and practice of the present English law, but they were an accurate official record of one of the great undertakings of law-making, law interpretation, and law development in our English-speaking world. The volumes chiefly testified to the underlying unity and the common and substantial legal understanding which was the basis of the social and political society which had for nearly 1,000 years been developed by the people who spoke our tongue.

Mr. Justice Horridge, the Treasurer of the Middle Temple, in expressing thanks for the gift on behalf of the Society, said that he would like to draw attention to the fact that the Inn was already heavily indebted to previous donors for additions that they had made to the library. Before the present donation they had got together some 3,500 books dealing with American law reports and law text-books In 1927 the State of Virginia presented to them a complete set of Virginian reports. Shortly afterwards the Chief Justice of Ohio came over here and presented a copy of all the Ohio reports. There were still many gaps before, but the present gift had now entirely completed the library as a library of American law reports. They had now, he thought, over 6,000 volumes, and they prided themselves that it was the finest collection of American reports in England. It had been their proud privilege to be more connected with America than any of the other Inns of Court. The original discoverer of Virginia came from their Hall, as did Drake, who kept the seas open; and during the seventeenth and eighteenth centuries two-thirds of the Americans called to the Bar were called by the Middle Temple. Five of their members signed the American Declaration of Independence. The presentation, concluded the Treasurer, was a striking illustration of the amity which now existed between the two nations.

The American Ambassador, General Dawes, with a few friends, and a number of the masters of the Bench of the Middle Temple were present.

The Auctioneers' and Estate Agents' Institute.

Professional Examinations, March, 1930.

The following candidates were awarded first class certificates in order of merit, at the recent Professional Examinations, namely:—

The Final—Bryan Leolin Richards, 18, Woodberry-avenue, Winchmore Hill, N.21, Robert Wilton Silk, "Armadale," Green Dragon-lane, Winchmore Hill, N.21, Ernest Wilfred Popple, 26, Albany-street, Hull, Eric John Kinsman, 8, The Crescent, Belmont, Surrey, Leslie Osborne Hart, 8, Preshaw Crescent, Mitcham, Surrey, Horace Charles Burr, 138, Wakefield-street, East Ham, E.6, Horace Donald Dixon, 33, Silver Birch Road, Erdington, Birmingham, Thomas Charles Evered, 41, Elvaston-place, Queen's Gate, S.W.7.

Two hundred and thirty-five candidates successfully passed the Final.

The Intermediate—Eric Johnson Booth, 10, Allerton-road, Southport, John Ebbutt Dickins, 15, Fairfield-road, East Croydon, Frederick Crosier Larmour, "Meadowcourt," Beechfield-road, Gosforth, Newcastle-upon-Tyne, Walter Ashby Howkins, 19, Hillmorton-road, Rugby, Edward Alexis Symmons, 46, Russell-road, Palmers Green, N.13, Ronald Christopher Wakelin, 105, Holland-road, Willesden, N.W.10, Percy Black, 21, High-street, Aylesbury, Bucks.

One hundred and ninety-eight candidates successfully passed the Intermediate.

We only regret that, interesting as these results are, space will not permit of our publishing these lists in full.

The Selden Society.

The report of the annual meeting of the Selden Society, held at Lincoln's Inn Hall, on 31st March, and recently issued to members, is quite interesting reading. Mr. Cyprian Williams, who, in the absence of the President and senior Vice-President, took the chair, said that while the society were still going on with the publication of the Year Books of Edward II, they proposed, in 1930, to bring out a Year Book of Edward IV's reign, which contained cases on contract much nearer to modern law. No less than three of the volumes preparing for publication were being edited by ladies, including two year books and a compilation of Assize Rolls of Lincolnshire and Worcestershire. The society is clearly doing very valuable work. Mr. Williams said that it was impossible to understand the modern real property legislation, and especially the distinctions between legal and equitable estates, without some study of the history of the Court of Chancery, of uses and trusts, the development of leasehold terms, and the nature of an entailed interest. He raised, without answering, a curious question arising under the Administration of Estates Act. What happens to the estate of an owner of land in fee simple who dies intestate without leaving any relatives surviving?

The Act, by s. 1, provides that real estate to which a person is entitled for an interest not ceasing at his death, shall devolve on his personal representatives. The obvious answer, at first sight, is that the personal representatives would hold the property upon the statutory trusts, and after payment of debts, etc., the residue would go to the Crown as *bona vacantia*. But Mr. Williams suggests that under the old law, the theory was that the estate of a tenant in fee who died intestate and without heirs, ceased to exist at his death, and that when the property escheated to the Crown or a mesne lord, the latter never became entitled to any estate in the land that had been in the deceased, but entered and took possession by title paramount. Therefore, under the Act the estate could not pass to the personal representatives, nor, as escheat has been abolished, to the lord of the fee, so it would seem to vanish into the air. The point is left open to argument and may one day have to be decided by the Court. But we may observe that the exceptions as to entailed interests, interests under joint tenancies and corporations sole contained in s. 3 of the Act, evidently assume that an estate in fee does not cease to exist upon the death of the owner merely because he has omitted to dispose of it or has not left any relatives entitled under s. 46. In accordance with the old theory, it was held that there could be no escheat of an equitable estate in land where the owner left no heirs, but the right of escheat was extended to equitable estates by the Intestates Act, 1884, and was thus treated, not as an incident of tenure, but a right of property.

In Parliament.

Progress of Bills.

House of Lords.

Third Parties (Rights against Insurers) Bill. Second reading. [8th May.

Coalmines Bill. Committee. Second day. [14th May.

House of Commons.

Finance Bill. Read the first time. [6th May.

Housing (Scotland) Expenses. Resolution reported and agreed to. [6th May.

Air Transport (Subsidy) Agreements [Money]. Resolution reported and agreed to. [6th May.

Consumers Council. Bill read a second time. [8th May.

Canal Boats Bill. As amended (in the Standing Committee) considered. [9th May.

Air Transports (Subsidy Agreements) Bill. Read a second time. [13th May.

Sea Fisheries Regulation (Expenses) Bill. Read a second time. [13th May.

Mental Treatment Bill [H.L.]. Read the third time and passed. [14th May.

Legal Notes and News.

Honours and Appointments.

The King has approved a recommendation of the Home Secretary that Mr. R. E. L. VAUGHAN-WILLIAMS, K.C. (Recorder of Swansea) shall be appointed Recorder of Cardiff to succeed Sir Rhys Williams, Bart., K.C., who has resigned; that Mr. E. W. MILNER-JONES (Recorder of Merthyr Tydfil) shall be appointed Recorder of Swansea; and that Mr. H. WALTER SAMUEL, M.P., shall be appointed Recorder of Merthyr Tydfil.

The Bishop of Winchester has appointed Mr. GUY H. GUILLUM SCOTT, Barrister-at-Law, Assistant Secretary of the Church Assembly since October, 1920, to be Chancellor of the Diocese of Winchester in succession to the late Mr. A. Trevor Laurence.

Mr. A. E. SUTOR has been appointed Clerk to the Cockermouth Urban District Council.

Mr. G. W. POTTER, Clerk to the former Sittingbourne Urban District Council, has been appointed Clerk to the new Sittingbourne and Milton Urban District Council.

Mr. JOHN ATKINSON, Prosecuting Solicitor to the Newcastle City Council, has been appointed Deputy Town Clerk of Chesterfield.

Professional Partnerships Dissolved.

HAROLD EVES, ARTHUR EDWARDS and THOMAS HENRY O'CONNOR, solicitors, 84, Chancery-lane, London, W.C.2 (Eves, Edwards & O'Connor), dissolved by mutual consent as from 11th April, 1929. The business will be carried on in the future by H. Eves and T. H. O'Connor.

Wills and Bequests.

Sir Thomas Willes Chitty, Bart., K.C., (seventy-four) of 48, Queen-street-gardens, South Kensington, a Master of the Supreme Court for a quarter of a century, and Senior Master and King's Remembrancer for six years; managing editor of Lord Halsbury's "Laws of England," editor-in-chief of *The English and Empire Digest*, and joint editor of Smith's "Leading Cases," left property of the value of £52,457, with net personalty £51,745.

Mr. John Griffin Bristow, solicitor, of 169, Queen's Gate, South Kensington, S.W. and 1, Copthall-buildings, E.C., left estate of the gross value of £52,561. He gave, inter alia, £50 to Serjeant E. Faulkner, if at the time of his death he was head-porter at 169, Queen's Gate, South Kensington.

Mr. William Ernest Hempson, of Henrietta-street, Strand, W.C., and of Molyneux Park, Tunbridge Wells, solicitor, who died on 6th February, aged seventy-one, left estate of the gross value of £34,404, with net personalty £30,737. He left a framed engraving of King Henry VIII presenting the Charter to the Barber Surgeons, "which I am assured on skilled authority is one of the few original prints of the painting in the possession of the Barbers' Company," to the British Medical Association, "asking them to accept it as a memento of my esteem and regard for the good work which they have undertaken and accomplished in aid of the medical profession," and £100 to Sarah Gilson, if still in his service.

NEW MUNIMENT ROOM AT GUILDFORD.

The Guildford Town Council has established a new muniment room, to which the Master of the Rolls has just accorded recognition as a depository for manorial records. This will greatly help the very desirable work being done towards the preservation of ancient documents in Surrey. The Surrey Record Society is taking an active part in the management by providing advisers who are experts in archive administration.

PUBLIC RECORD OFFICE.

The search rooms of the Public Record Office will be closed for cleaning purposes from 15th to 20th September, 1930, inclusive. Special arrangements will be made for the transaction of urgent legal business.

DEPARTMENTAL COMMITTEE ON REGISTRATION OF ACCOUNTANTS.

The Departmental Committee appointed by the President of the Board of Trade to consider and report whether it is desirable to restrict the practice of the profession of accountancy to persons whose names would be inscribed in a register established by law and, if so, to report on the method by which such register should be established and controlled, held a further meeting on the 1st inst.

At this meeting evidence on behalf of the following bodies was given by the gentlemen named:—

Society of Accountants in Edinburgh: Mr. Robert Dick Rainie, Mr. Laurence Bruce Bell.

British Association of Accountants and Auditors, Ltd.: Mr. Thomas Magnay, Mr. Lionel T. Knight.

Society of Statisticians and Accountants, Ltd.: Mr. Hubert W. Hughes, Mr. William Gray.

Institute of Company Accountants, Ltd.: Mr. Lawrance Ludford, Mr. Robert R. Mason.

Faculty of Auditors, Ltd.: Mr. R. F. B. Cross, Mr. F. J. Ashton.

Institute of Municipal Treasurers and Accountants: Mr. Edmund Lund, M.B.E., Mr. William Bateson, Mr. F. Ogden Whiteley, O.B.E.

Institute of Poor Law Accountants, Ltd.: Mr. William H. Glanville, Mr. R. H. Jarvis.

The evidence taken at this meeting will be published and placed on sale by H. M. Stationery Office in a few weeks' time.

SUN LIFE ASSURANCE COMPANY OF CANADA.

It is announced that Mr. E. W. Beatty, Chairman and President of the Canadian Pacific Railway Company, has joined the Board of the Sun Life Assurance Company of Canada.

POLICE AND THE PRESS.

PROTEST TO PRIME MINISTER.

The secretary of the Newspaper Proprietors' Association has sent the following letter to the Prime Minister :—

13th May, 1930.

Sir,—At a meeting held to-day of representatives of the London morning, evening, and Sunday newspapers, comprising the membership of this association, Lord Riddell in the chair, it was resolved that a copy of the enclosed resolutions should be forwarded to you.

I was also instructed to issue copies for publication by the Press to-morrow morning.

Yours faithfully,
T. W. MCARA.

(1) That this council, representing the newspapers mentioned in the accompanying schedule, regrets the action of the Government in making use of s. 6 of the Official Secrets Act, 1920, regarding the publication in certain newspapers of the news of Mr. Gandhi's forthcoming arrest.

(2) The council is of opinion that the circumstances did not justify such proceedings, and that the interrogation of the journalist concerned, who had been engaged in the collection of information by legitimate methods, was an unjustifiable infraction of the freedom of the Press.

(3) The council is of opinion that in the public interest the amendment of certain sections of the Official Secrets Act so far as they relate to civil affairs is urgently necessary.

DEATH FOR RAZOR SLASHING.

JUDGE'S SUGGESTIONS.

Lord Alness, the Lord Justice Clerk, addressing the magistrates at Glasgow High Court, on Tuesday last, says *The Morning Post*, referred to the number of cases of assault by razors and other lethal weapons, and the difficulty in many cases of obtaining evidence because of the reign of terror which prevailed.

It might be necessary, he said, in exceptionally serious cases to enforce the death penalty under a statute of George IV. Under this Act it did not necessarily mean that the victim had to die before the death penalty could be imposed.

The remedy might seem to some people the penalty of flogging, which was found essential and sufficient in the last century to stamp out the crime of garotting then prevalent in England. The bully feared flogging and he feared death.

Baillie Hunter, the senior magistrate, who replied, held up a dagger and said that weapon had been used by a gang in a case which he had recently dealt with in the police court.

MOTION TO QUASH INQUEST.

Before a King's Bench Divisional Court, consisting of Justices Talbot and Hawke, on Monday, says *The Morning Post*, Mr. H. J. Wallington moved *ex parte* for a rule *nisi* for a writ of *certiorari* to quash a coroner's inquisition with regard to the death of Bertie Reginald Perren, who was killed as the result of a motor collision at North Mimms on 25th April.

The grounds of the application, said Mr. Wallington, were set out in an affidavit of Mr. George Clements, a solicitor, who said that he attended the inquest. On the retirement of the jury, Mr. Clements said, he noticed that the Coroner's officer, who had given evidence, was in the room with the jury during the consideration of the verdict.

The Court granted a rule.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON GROUP I.

DATE	EMERGENCY ROTA.	APPEAL COURT NO. 1.	MR. JUSTICE EVE. Sitness. Part I.	MR. JUSTICE MAUGHAM. Non-Witness.
M'nd'y, May 19	Mr. Jolly	Mr. More	Mr.*Jolly	Mr. Blaker
Tuesday .. 20	Hicks Beach	Ritchie	Ritchie	Jolly
Wednesday 21	Blaker	Andrews	*Blaker	Ritchie
Thursday ..22	More	Jolly	Jolly	Blaker
Friday 23	Ritchie	Hicks Beach	*Ritchie	Jolly
Saturday .. 24	Andrews	Blaker	Blaker	Ritchie

DATE.	GROUP I. MR. JUSTICE BENNETT. Witness. Part II.	MR. JUSTICE CLAUSON. Non-Witness.	GROUP II. MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
M'nd'y, May 19	Mr. Ritchie	Mr. Andrews	Mr. Hicks Beach	Mr. More
Tuesday .. 20	*Blaker	More	*Andrews	*Hicks Beach
Wednesday 21	*Jolly	Hicks Beach	*More	Andrews
Thursday . 22	*Ritchie	Andrews	*Hicks Beach	*More
Friday 23	Blaker	More	*Andrews	Hicks Beach
Saturday .. 24	Jolly	Hicks Beach	More	Andrews

* The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The WHITSUN VACATION will commence on Saturday, the 7th day of June, 1930, and terminate on Tuesday, the 10th day of June, 1930, inclusive.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (1st May, 1930) 3%. Next London Stock Exchange Settlement Thursday, 22nd May, 1930.

	Middle Price 14th May 1930.	Flat Interest Yield.	Approximate Yield with redemption.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	87½	4 11 5	—
Consols 2½%	55½	4 10 6	—
War Loan 5% 1929-47	101⅝	4 18 3	—
War Loan 4½% 1925-45	97½	4 12 4	4 14 6
War Loan 4% (Tax free) 1929-42	101½	3 18 10	3 17 6
Funding 4% Loan 1960-90	89½	4 9 5	4 10 0
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	93½	4 5 7	4 7 6
Conversion 5% Loan 1944-64	102½	4 17 7	4 17 0
Conversion 4½% Loan 1940-44	98½	4 1 3	4 13 0
Conversion 3½% Loan 1961	77½	4 10 4	—
Local Loans 3% Stock 1912 or after	64	4 13 9	—
Bank Stock	250½	4 15 10	—
India 4½% 1950-55	83	5 8 5	5 15 9
India 3½%	102⅛	5 12 0	—
India 3%	54	5 11 1	—
Sudan 4½% 1939-73	96	4 13 9	4 14 6
Sudan 4% 1974	86	4 13 0	4 15 6
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years.)	83½	3 11 10	4 2 3
Colonial Securities.			
Canada 3% 1938	90	3 6 8	4 10 0
Cape of Good Hope 4% 1916-36	94	4 5 1	5 2 0
Cape of Good Hope 3½% 1929-49	84	4 3 4	4 16 0
Ceylon 5% 1960-70 (First Dividend £2 5s., 1st August, 1930.)	103	4 17 1	4 16 9
Commonwealth of Australia 5% 1945-75	91	5 9 11	5 11 3
Gold Coast 4½% 1956	94	4 15 9	4 18 0
Jamaica 4½% 1941-71	93	4 16 9	4 18 3
Natal 4% 1937	94	4 5 1	5 2 0
New South Wales 4½% 1935-45	83½	5 7 9	6 4 9
New South Wales 5% 1945-65	90	5 11 1	5 13 0
New Zealand 4½% 1945	95	4 14 9	4 19 0
New Zealand 5% 1946	101	4 19 0	4 18 0
Nigeria 5% 1950-60 (First Dividend £1 15s., 1st August, 1930.)	101	4 19 0	4 18 6
Queensland 5% 1940-60	88½	5 13 0	5 16 3
South Africa 5% 1940-60	101	4 19 0	4 18 0
South Australia 5% 1945-75	89½	5 11 9	5 12 9
Tasmania 5% 1945-75	92½	5 8 1	5 9 0
Victoria 5% 1945-75	89½	5 11 9	5 12 9
West Australia 5% 1945-75	89½	5 11 9	5 12 9
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	64	4 13 9	—
Birmingham 5% 1946-56 (First Dividend £1 5s., 1st July, 1930.)	101	4 19 0	4 19 3
Cardiff 5% 1945-65	100	5 0 0	5 0 0
Croydon 3% 1940-60	71	4 4 6	4 16 9
Hastings 5% 1947-67 (First full half year's Dividend, 1st October, 1930.)	102	4 18 0	4 16 6
Hull 3½% 1925-55	80	4 7 6	4 17 6
Liverpool 3% Redeemable by agreement with holders or by purchase	75	4 13 4	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	54	4 12 7	—
London City 3% Consolidated Stock after 1920 at option of Corporation	64	4 13 9	—
Manchester 3% on or after 1941	65	4 12 7	—
Metropolitan Water Board 3% "A" 1963-2003	65	4 12 7	—
Metropolitan Water Board 3% "B" 1934-2003	66	4 10 11	—
Middlesex C.C. 3½% 1927-47	85	4 2 4	4 18 0
Newcastle 3½% Irredeemable	73	4 15 11	—
Nottingham 3% Irredeemable	62	4 16 9	—
Stockton 5% 1946-66	100	5 0 0	5 0 0
Wolverhampton 5% 1946-56	101	4 19 0	5 0 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	83½	4 15 10	—
Gt. Western Rly. 5% Rent Charge	100½	4 19 6	—
Gt. Western Rly. 5% Preference	97	5 2 7	—
L. & N.E. Rly. 4% Debenture	78	5 2 7	—
L. & N.E. Rly. 4% 1st Guaranteed	74	5 8 1	—
L. & N.E. Rly. 4% 1st Preference	67	5 19 5	—
L. Mid. & Scot. Rly. 4% Debenture	80	5 0 0	—
L. Mid. & Scot. Rly. 4% Guaranteed	78	5 2 7	—
L. Mid. & Scot. Rly. 4% Preference	70½	5 13 6	—
Southern Railway 4% Debenture	80	5 0 0	—
Southern Railway 5% Guaranteed	99	5 1 0	—
Southern Railway 5% Preference	93	5 7 6	—

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phones: Temple Bar 1181-2.

YOUNG EXPERIENCED SOLICITOR with own dictaphone would help overworked solicitor evenings at agreed terms. Litigious and conveyancing; good credentials.—Box 327, Solicitors' Journal, 29, Breams-buildings, E.C.4.

EX-OFFICERS AND OTHER RANKS.

THE Proprietors of The Solicitors' Journal have placed this space at the disposal of THE BRITISH LEGION OFFICERS' ASSOCIATION, EMPLOYMENT BUREAU, 3-4, Clement's Inn, Strand, London, W.C.2 (Telephone Holborn 5769), to whom all replies should be addressed, quoting number of advertisement, date of insertion and the name of this paper.

SMART energetic business man, age 37, possessing excellent testimonials (last employment manager of 100 staff eight years), seeks position of trust, any capacity. Splendid organising ability. Dis.330

EX-OFFICER, Major and ex-Area Commandant, Ulster Constabulary, with knowledge of labour and welfare work, book-keeping and administrative work generally, desires immediate employment; will accept any position home or abroad. 11044

URGENTLY required, employment by Public School ex-officer as rubber planter. Age 32. Married no children. Can drive car. Healthy and energetic. 11155

PIONEER Salesman, five years' excellent results, references. Disengaged through merger. Fine connection, breweries, dairies, corporations, gas companies, grocers, restaurants, cafés, South Coast. Own car, fit and energetic. Advertising and sales promotion experience. Public School. Age 30. 11893

EX-OFFICER, Captain regular army, 43, seeks employment commercial office as accountant or clerical position. Good knowledge book-keeping. Or would accept any position of trust. 11914

EX-CAPTAIN, Scottish Public School, keen sportsman, experienced accountant and salesman, thorough knowledge India, Sierra Leone and home; desires post. Excellent references. 11933

PRACTICES AND PARTNERSHIPS.

SOLICITOR desires to purchase old-established general and conveyancing practice in or near London showing substantial profits; or early succession.—Box 99, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR (35), M.A., Oxon, Commissioner for Oaths, desires partnership in old-established Conveyancing and General Country Practice; preferably in Chester or neighbouring counties. Wide experience in conveyancing, trust and family business and general practice. Able to introduce business; necessary capital available.—Box 246, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, practising own account, desires to purchase established progressive Conveyancing and General Practice producing average net profit £1,000 per annum in London.—Box 124, Solicitors' Journal, 29 Breams-buildings, E.C.4.

ARTICLED CLERKS, &c.

LAW.—Vacancy occurs for Articled Clerk in busy solicitor's office; general practice; moderate premium.—Write Box 418, Solicitors' Journal, 29, Breams-buildings, E.C.4.

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SOLICITOR, with busy and growing general practice, has vacancy for Articled Clerk. Personal supervision. Premium required, part returned.—Apply, Box 146, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR, general practice and clerk to local authority in growing South Coast town, has vacancy for articled clerk. Public school man preferred. Good prospects for suitable man used to country life.—Box No. 87, Solicitors' Journal, 29, Breams-bldgs., E.C.4.

ARTICLED PUPILS.

CITY Solicitor (general, old-established practice) has vacancy for Articled Pupil; excellent opportunity; personal supervision; premium.—Write Box 420, Solicitors' Journal, 29 Breams-buildings, E.C.4.

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Particulars of the Solicitor, Vyvyan Wells, Esq., Churchend, Finchley, N.3, and of the Auctioneer, the Estate Offices, facing Tube station, Golders-green, N.W.11. 'Phone Speedwell 1601 (3 lines).

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Agents—The United States and Canada; The Carswell Co., Ltd., 145-149, Adelaide Street West, Toronto 2, Canada; India: Higginbothams, Publishers, Mount Road, Madras; Australia and New Zealand: "The Times," 255a, George Street, Sydney, N.S.W.